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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEAL

NINTH CIRCUIT

FILED
CLERK, U.S. DISTRICT COURT

11/10/2020

CENTRAL DISTRICT OF CALIFORNIA
BY: DTA DEPUTY

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA 92223
951-769-1268
In Propria Persona

Paul Hupp,

Plaintiff/Appellant,

v.

County of Riverside,
City of Beaumont,
Solera Oak Valley Greens Association,
Richardson Harman Ober, PC,
Richardson Ober, PC,
Thomas Harry Cahraman,
Rebecca Lynn Dugan,
John Washburne Vineyard,
Carol Anne Greene,
Debre Katz Weintraub,
Samiuela F. Taloa,
Wanda Joyce Bartholomew,
Richard Allen Beyl,
Kelly Gene Richardson,
Jonathan Robert Davis,
Theodore Hyun Dokko,
Todd Halbeisen,
Miguel Macias,
Lyndon Peats,
John Simpson,
Wayne Wolcott,
Virginia Anne Phillips,
Roes 1-10,
Individually, Individually, Jointly, Jointly and
Severally,
Defendants/Appellees.

Case No.: 20-

5:16-cv-00370-VAP-SP

**APPELLANT'S NOTICE OF APPEAL
UNDER TITLE 28 U.S.C. § 158;
DESIGNATION OF THE RECORD ON
APPEAL; PLAINTIFF'S STATEMENT
OF ISSUES; RENEWED IFP
(APPEAL BASED ON ISSUES IN
EMERGENCY MOTION UNDER
CIRCUIT RULE 27-3 THAT IS FILED
CONCURRENTLY)**

I

Notice of Writ of Mandamus; Alternatively Appeal

Appellant Paul Hupp ("APPELLANT"), *In Propria Persona*, hereby gives notice of Appeal ("APPEAL") under Title 28 U.S.C. § 158 from the District Court's dismissal¹ dated September 9, 2020, and served on October 30, 2020².

This APPEAL is based upon the statement of issues accompanying this notice in APPELLANT'S Emergency Motion under Circuit Rule 27-3, filed concurrently. The names of all parties (bold) to the judgment appealed from, along with their addresses and telephone numbers, are as follows;

Plaintiffs;

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA. 92223
(951) 769-1268

Defendants;

No Defendant/s have been served or appeared.

II

Designation of the Record

APPELLANT files the following designation of the record on appeal to the 9th Circuit Court of Appeals under Title 28 U.S.C. 158.

The record in this case contains limited docket items and no court appearances requiring transcripts. Plaintiff's requests all docket items for the record.

¹ The ORDER is attached to the accompanying Emergency Motion as Exhibit #1.

² The ORDER and papers were not mailed until October 30, 2020, and not received until November 6, 2020, and is attached to the accompanying Emergency Motion as Exhibit #2.

III
Statement of Issues on Appeal

APPELLANT Paul Hupp is being, and has been for four (4) years, denied access to the courts and due process of law under the First and Fourteenth Amendments due to his constitutionally protected free speech; in state court and federal court by said court's refusing access to accept civil actions, as outlined in APPELLANT'S Emergency Motion under Circuit Rule 27-3, which by this reference is incorporated into this brief and filed concurrently.

IV
IFP Fee Waiver Application

APPELLANT PAUL HUPP'S EX PARTE MOTION FOR WAIVER OF ALL FEES AND COSTS ON APPEAL PURSUANT TO TITLE 28 U.S.C. § 1915 (IN FORMA PAUPERIS); POINTS AND AUTHORITIES AND DECLARATION OF PAUL HUPP IN SUPPORT THEREOF

APPELLANT Paul Hupp, *In Propria Persona*, files this renewed application for waiver of all fees and costs that relate to WRIT APPEAL pursuant to Title 28 U.S.C. § 1915.

APPELLANT filed a waiver in the District Court on August 24, 2020, and incorporates that waiver (not ruled on) for this WRIT APPEAL.

POINTS AND AUTHORITIES IN SUPPORT OF FEE WAIVER

Plaintiff lacks the financial means necessary to pay the appeal filing fee.

All appeal costs that arise under In Forma Pauperis status, including transcripts, are included in the waiver. Authority- Title 28 U.S.C. § 1915 (c)(1)(2)(3). Transcripts are not required in this appeal/action.

V
DECLARATION OF PAUL HUPP SUPPORTING IN FORMA PAUPERIS STATUS

1. I am the Plaintiff/Appellant in this action, appearing in *Propria Persona*.

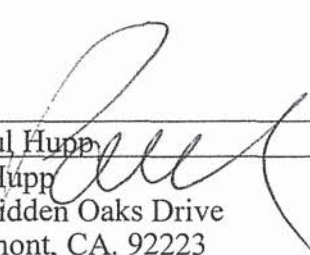
2. I am unemployed and currently have no dedicated income.
3. This appeal involves constitutional, First Amendment, free speech and due process questions that are well established, clear and should be clarified for uniformity and future litigation in this circuit.
4. I am entitled to address these issues at the appellate level to determine their scope, uniformity and constitutionality, as well as whether or not the trial court abused its discretion, or acted in an arbitrary and capricious manner, in refusing to calendar and rule on my Emergency *Ex Parte* Application.
5. I will provide any and all documentation that the court requires to verify my IFP status.

VERIFICATION

I, Paul Hupp, do hereby declare under penalty of perjury of the laws of the State of California and of the United States, that the above listed statements are within my personal knowledge, the statements are true and correct to the best of my knowledge, that all attached exhibits or declarations, if any, are true and correct copies of the originals which are in my personal possession, and if called upon to testify to such statements in a court of law of competent jurisdiction, I would and could competently testify to all such statements.

Executed on November 7, 2020, at Beaumont, CA

Dated this 7th day of November, 2020



/s/ Paul Hupp
Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA. 92223
In Propria Persona

DECLARATION OF SERVICE

Hupp v. County of Riverside, *et al*

9th Circuit Case No.: 20-

Central District of CA Case No.: (No Case No. assigned) VAP (SP)

I, Kim Hayes, declare the following;

1. I am over 18 years of age,
2. I am a party to this action,
3. My address is 965 Hidden Oaks Drive, Beaumont, CA 92223
4. I served a true and correct copy of THE FOLLOWING;

Appellant Paul Hupp's:

1. **APPELLANT'S NOTICE OF APPEAL UNDER TITLE 28 U.S.C. § 158; DESIGNATION OF THE RECORD ON APPEAL; PLAINTIFF'S STATEMENT OF ISSUES; RENEWED IFP (APPEAL BASED ON ISSUES IN EMERGENCY MOTION UNDER CIRCUIT RULE 27-3 THAT IS FILED CONCURRENTLY)**

ADDRESSED TO;

Office of the Clerk U.S. Court of Appeals for the Ninth Circuit P.O. Box 193939 San Francisco, CA 94119-3939	U.S. District Court – Civil Clerk 3470 12th Street Riverside, CA 92501	

By placing said document/s in a sealed envelope into the United States Postal Service at Beaumont, CA with the postage fully prepaid on;
November 7, 2020; 9114 9999 4431 7705 90

EXECUTED ON:

November 7, 2020, at Beaumont, CA 92223

I declare under penalty of perjury of the laws of the State of California and the United States that the foregoing is true and correct.

Declarant-Kim Hayes_____

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA 92223
951-769-1268
In Propria Persona

UNITED STATES COURT OF APPEAL

NINTH CIRCUIT

Paul Hupp,

Appellant/Plaintiff,

v.

**County of Riverside,
City of Beaumont,
Solera Oak Valley Greens Association,
Richardson Harman Ober, PC,
Richardson Ober, PC,
Thomas Harry Cahraman,
Rebecca Lynn Dugan,
John Washburne Vineyard,
Carol Anne Greene,
Debre Katz Weintraub,
Samiuela F. Taloa,
Wanda Joyce Bartholomew,
Richard Allen Beyl,
Kelly Gene Richardson,
Jonathan Robert Davis,
Theodore Hyun Dokko,
Todd Halbeisen,
Miguel Macias,
Lyndon Peats,
John Simpson,
Wayne Wolcott,
Virginia Anne Phillips,
Roes 1-10,
Individually, Individually, Jointly, Jointly and
Severally,**

Respondents/Defendants.

**EMERGENCY MOTION; NINTH
CIRCUIT RULE 27-3**

9th Circuit Case No.: 20-56004
Central District of CA Case No.: (No Case #
Assigned)

**APPELLANT'S EMERGENCY MOTION
FOR TEMPORARY RESTRAINING
ORDER DUE TO IRREPARABLE
HARM; ALTERNATIVELY TO ORDER
DISTRICT COURT TO ISSUE TRO;
MEMORANDUM OF LAW: POINTS AND
AUTHORITIES; DECLARATION OF
PAUL HUPP IN SUPPORT**

Circuit Rule 27-3 Certificate

Names, telephone numbers, addresses and emails of the attorneys of record:

1. Plaintiff and Appellant:

Paul Hupp (951) 769-1268, 965 Hidden Oaks Drive, Beaumont, CA 92223

Paulhupp@gmail.com,

2. Defendants/Appellees:

No Defendant has been served or notified.

I

Facts Showing Existence and Nature of Emergency

As set forth *infra*, Appellant Paul Hupp ("APPELLANT"), seeks an "**Emergency Order**": 1) from the Ninth Circuit directly; or 2) an ODRER from the Ninth Circuit directing the District Court to calendar, and rule on, APPELLANT'S *Ex Parte* Application for a Temporary Restraining Order" ("TRO") forthwith. APPELLANT has suffered, and continues to suffer, irreparable harm due to fraud and other criminal actions in the instant civil action, going back to January, 2012. The facts are specifically stated in APPELLANT'S TRO that was filed in the District Court on August 21, 2020,

II

Notification of Opposing Counsel

Counsel for opposition Defendant/s is unknown at this time because the action was not put on the docket and no defendant was been served. The action was filed with the District Court on August 21, 2020, with the emergency "*Ex Parte* Application". Despite the *emergency* nature of the action District Court Judge Virginia Anne Phillips ("PHILLIPS") sat on the papers for an astonishing 11 weeks without action, despite the irreparable harm being accumulated daily. PHILLIPS then dismissed the action and all the supporting papers¹ on October 30, 2020², with no argument, nor reason.

¹ Attached, made a part of and incorporated herein as "Exhibit #1"

² Attached, made a part of and incorporated herein as "Exhibit #2" The Dismissal is dated August 25, 2020, and allegedly entered by the clerk on September 9, 2020. The postage stamp clearly shows it was not mailed until October 30, 2020, and nor received until November 6, 2020.

III Argument

On August 21, 2020, APPELLANT filed the instant action in the District Court concurrently with an Emergency *Ex Parte* Application³, to be heard no later than August 28, 2020. District Court did not docket nor calendar the action or the *Ex Parte* Application in any manner whatsoever, despite the emergency nature of the action and irreparable harm being inflicted.

The basic premise is that the Riverside County Superior Court, in conjunction with the District Attorney, have a “pattern and practice” of engaging in multiple acts of misconduct. These acts include: 1) filing false criminal charges; 2) that are baseless and lack probable cause; 3) seeking excessive bond on the charges, which ranges from 600% to 1,000%+ the posted schedule rate; 4) dropping the charges the day of trial; 5) filing criminal charges that are beyond the statute of limitations; 6) filing charges that is 100% protected free speech; and 7) continue to file false criminal charges on a regular basis. These actions are more clearly laid out in APPELLANT’S “Emergency Application for *Ex Parte* Application Pursuant to Local Rule 7-19 for Temporary Restraining Order” filed in the District Court on August 21, 2020, and attached here as Exhibit #3.

IV Conclusion

For the reasons stated *supra*, APPELLANT respectfully asks this Court to GRANT the TRO; alternatively ORDER District Court to immediately calendar APPELLANT’S *Ex Parte* Application within seven (7) days.

³ Attached, made a part of and incorporated herein as “Exhibit #3”

V

Declaration of Appellant Paul Hupp in Support

I, Paul Hupp, declare the following:

1. I have personal knowledge of all statements and exhibits in this brief.
2. If called upon to testify to this document and declaration in a court of competent jurisdiction I could and would testify to everything stated.
3. Attached are multiple exhibits in support, which are true and correct copies of the originals which I have in my personal possession.
4. I certify that to avoid irreparable harm relief is needed in less than **SEVEN (7)**

DAYS.

I declare under penalty of perjury the forgoing is true and correct.

Executed on November 7, 2020, at Beaumont, CA

Respectfully Submitted.

Dated this 7th day of November, 2020


/s/ Paul Hupp
Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA 92223
(951) 769-1268
Paulhupp@Gmail.com
In Propria Persona

DECLARATION OF SERVICE

Hupp v. County of Riverside, *et al*

9th Circuit Case No.: 20-

Central District of CA Case No.: (No Case No. assigned) VAP (SP)

I, Kim Hayes, declare the following;

1. I am over 18 years of age,
2. I am a party to this action,
3. My address is 965 Hidden Oaks Drive, Beaumont, CA 92223
4. I served a true and correct copy of THE FOLLOWING;

Appellant Paul Hupp's:

- 1. APPELLANT'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER DUE TO IRREPARABLE HARM; ALTERNATIVELY TO ORDER DISTRICT COURT TO ISSUE TRO; MEMORANDUM OF LAW: POINTS AND AUTHORITIES; DECLARATION OF PAUL HUPP IN SUPPORT**

ADDRESSED TO;

Office of the Clerk U.S. Court of Appeals for the Ninth Circuit P.O. Box 193939 San Francisco, CA 94119-3939	U.S. District Court – Civil Clerk 3470 12th Street Riverside, CA 92501	

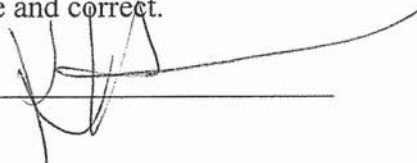
By placing said document/s in a sealed envelope into the United States Postal Service at Beaumont, CA with the postage fully prepaid on;
November 7, 2020; 9114 9999 4431 7705 90

EXECUTED ON:

November 7, 2020, at Beaumont, CA 92223

I declare under penalty of perjury of the laws of the State of California and the United States that the foregoing is true and correct.

Declarant-Kim Hayes



Hupp v. County of Riverside et al, *et al*
9th Circuit Case No.: 20-
Central District of CA Case No.: (No Case No. assigned) VAP (SP)

Exhibit #1

MIME-Version:1.0 From:caed_ecfmail@caed.uscourts.gov To:ecfnef@caed.uscourts.gov
Message-Id:<30498048@caed.uscourts.gov>Subject:Activity in Case 5:16-cv-00370-VAP-SP Aristeia
Hupp et al v. Solera Oak Valley Greens Association et al Vexatious Litigant Filing (CV-115)
Content-Type: text/html

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Notice of Electronic Filing

The following transaction was entered on 9/9/2020 at 2:16 PM PDT and filed on 8/25/2020

Case Name: Aristeia Hupp et al v. Solera Oak Valley Greens Association et al

Case Number: 5:16-cv-00370-VAP-SP

Filer:

WARNING: CASE CLOSED on 05/13/2016

Document Number: 86

Docket Text:

ORDER RE VEXATIOUS LITIGANT FILING by Judge Virginia A. Phillips, IT IS HEREBY ORDERED that the documents presented not be filed. (bm)

5:16-cv-00370-VAP-SP Notice has been electronically mailed to:

Barry Zoller david.samani@lewisbrisbois.com, john.lowenthal@lewisbrisbois.com,

barry.zoller@lewisbrisbois.com, jackie.mcgee@lewisbrisbois.com

Wai Hung Wong amy.wong@klgates.com, wanda.lentfer@klgates.com

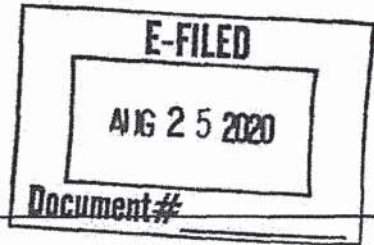
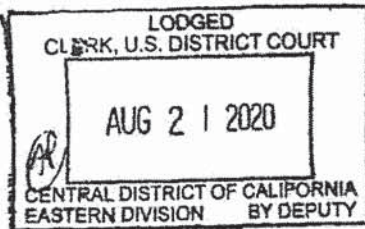
Theodore Hyun Dokko tdokko@sgrlaw.com

Dennis E Wagner dew@wzclawfirm.com, ja@wzclawfirm.com, et@wzclawfirm.com,

kc@wzclawfirm.com, mez@wzclawfirm.com, rsc@wzclawfirm.com

5:16-cv-00370-VAP-SP Notice has been delivered by First Class U. S. Mail or by other means BY THE FILER to :

Paul Hupp
965 Hidden Oaks Drive
Beaumont CA 92223
Aristea Hupp
965 Hidden Oaks Drive
Beaumont CA 92223



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Hupp

CASE NUMBER

5:16-cv-00370-VAP-SP

PLAINTIFF(S)

v.
Solera Oak Valley Greens Association

NOTICE AND ORDER RE FILING BY
VEXATIOUS LITIGANT

DEFENDANT(S).

On August 21, 2020, the Court received the attached

☒ Complaint ☐ Petition ☐ Notice of Removal, captioned

☒ other document(s), entitled Certificate of interested parties; IFP, Notice of motion; Request

from Paul Hupp, who was found by the Court on 08/16/2016

in case number 5:16-cv-00370-VAP-SP to be a vexatious litigant and/or subject to the following restrictions on the filing of additional documents:

- ☒ A court order or written authorization from a judge must be obtained prior to the filing of document(s).
☒ Submission of document(s) for filing requires a Motion for Leave to File.
☐ Document(s) must be pre-screened by the Court before filing.
☐ Filing fee must be paid.
☐ No further filings are to be accepted in this case from the person named above or anyone acting on his or her behalf.
☐ Bond in the amount of \$ _____ must be posted in order to proceed.
☐ Other :

Pursuant to the terms of the order imposing filing restrictions, the attached document(s) will be forwarded to the

☐ assigned magistrate judge ☐ assigned district judge ☒ Chief Judge for review.

☐ IT IS HEREBY ORDERED that the document(s) presented:

☐ be filed in the above-captioned case.

☐ be filed in case number _____.

☐ be filed as a new case.

or

☐ IT IS RECOMMENDED that the document(s) presented not be filed. The Clerk is directed to forward this recommendation to the appropriate district judge for review.

Date

United States Magistrate Judge

IT IS HEREBY ORDERED that the document(s) presented

☒ not be filed.

☐ be filed in the above-captioned case.

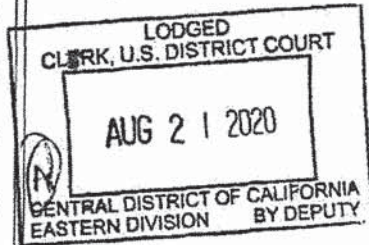
☐ be filed in case number _____.

☐ be filed as a new case.

Date

United States District Judge

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA. 92223
In Propria Persona



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Paul Hupp,

Plaintiff,

v.

County of Riverside,
City of Beaumont,
Solera Oak Valley Greens Association,
Richardson Harman Ober, PC,
Richardson Ober, PC,
Thomas Harry Cahraman,
Rebecca Lynn Dugan,
John Washburne Vineyard,
Carol Anne Greene,
Debre Katz Weintraub,
Samiuela F. Taloa,
Wanda Joyce Bartholomew,
Richard Allen Beyl,
Kelly Gene Richardson,
Jonathan Robert Davis,
Theodore Hyun Dokko,
Todd Halbeisen,
Miguel Macias,
Lyndon Peats,
John Simpson,
Wayne Wolcott,
Virginia Anne Phillips,
Roes 1-10,
Individually, Individually, Jointly, Jointly and
Severally,
Defendants.

Case No.: CV-20-

PLAINTIFF PAUL HUPP'S NOTICE OF
MOTION AND MOTION FOR LEAVE OF
COURT TO TEMPORARILY FILE CASE
PAPERS UNDER SEAL; DECLARATION
OF PAUL HUPP IN SUPPORT

I
Introduction

Plaintiff Paul Hupp ("Plaintiff"), in *Propria Persona*, files this Notice of Motion and Motion ("MOTION") for Leave of Court to *temporarily seal* the case documents, including but not limited to case initiating documents, support documents and the Emergency *Ex Parte* Application documents. And that such documents be filed under seal, and remain under seal, until defendants Thomas Harry Cahraman ("CAHRAMAN") Rebecca Lynn Dugan ("DUGAN"), John Washburne Vineyard ("VINEYARD") and Carol Anne Greene ("GREENE") have been served notice.

II
Argument

The Court has been filing copies of all civil matters that have been filed by Plaintiff since Hupp v Solera Oak Valley Greens Association et al, Case No.: EDCV-16-00370 VAP (SP), into the docket of that case, and notifying the attorneys of record in that case of such docket filings, including Dennis Earl Wagner (SBN# 99190) ("WAGNER") of the law firm Wagner and Pelayes, LLP¹, the attorney that represented Riverside Superior Court Judges John Devlon Molloy, Craig Grant Riemer and Edward T. Webster. Once WAGNER is notified he in turn would advise his clients, and associates of his clients, who were named defendants, of the litigation. This created a bias against PHUPP because WAGNER and his clients/client associates would then take actions to evade, elude and avoid incriminating actions and misconduct they were predisposed to engage in, including the felonious conduct that GREENE (with co-

¹ Wagner is now employed by Wagner Zemming Christensen, LLP. On information and belief Wagner and Magistrate Judge Sheri Nicole Pym have engaged in ex parte communications multiple times regarding

1 conspirator Samiuela F. Taloa) is accused of in this action. That has happened prior, and will
 2 likely happen in this action if the initiating papers are not filed under seal. It is also very probable
 3 that WAGNER will represent CAHRAMAN, DUGAN, VINEYARD and GREENE in this
 4 matter. Once CAHRAMAN, DUGAN, VINEYARD and GREENE have been served process the
 5 Court can unseal all documents previously filed under seal.

6 III 7 Conclusion

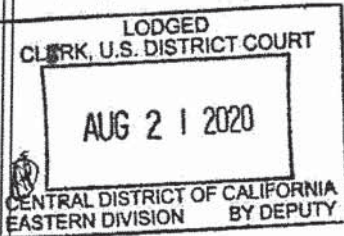
8
 9 Plaintiff prays the Court GRANT this *temporary* request because the burden to file the
 10 papers temporarily under seal is minimal, while the damage to Plaintiff that would be created by
 11 WAGNER giving advance notice to CAHRAMAN, DUGAN, VINEYARD and GREENE is
 12 tremendous and will cause substantial harm to Plaintiff and his action.

13 Declaration

14 I, **Paul Hupp**, the above-entitled Plaintiff, declare the following;

- 15 1. I have personal knowledge of all facts stated herein.
- 16 2. If called to testify to these facts I would and could competently testify to such in a
 17 court of competent jurisdiction.
- 18 3. In previous papers lodged/filed with this Court, copies were placed on the docket
 19 of Hupp v Solera Oak Valley Greens Association et al, Case No.: EDCV-16-
 20 00370 VAP (SP), and WAGNER was notified.
- 21 4. WAGNER in turn would notify his clients at the Riverside Superior Court, and
 22 associates of his clients, either directly by himself or indirectly by his clients
 23 notifying their associates.
 24
 25

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA. 92223
In Propria Persona



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Paul Hupp,

Plaintiff,

v.

Case No.: CV-20-

County of Riverside,
City of Beaumont,
Solera Oak Valley Greens Association,
Richardson Harman Ober, PC,
Richardson Ober, PC,
Thomas Harry Cahraman,
Rebecca Lynn Dugan,
John Washburne Vineyard,
Carol Anne Greene,
Debre Katz Weintraub,
Samiuela F. Taloa,
Wanda Joyce Bartholomew,
Richard Allen Beyl,
Kelly Gene Richardson,
Jonathan Robert Davis,
Theodore Hyun Dokko,
Todd Halbeisen,
Miguel Macias,
Lyndon Peats,
John Simpson,
Wayne Wolcott,
Virginia Anne Phillips,
Roes 1-10,
Individually, Individually, Jointly, Jointly and
Severally,
Defendants.

PLAINTIFF PAUL HUPP'S MOTION TO
DISQUALIFY MAGISTRATE JUDGE
SHERI NICOLE PYM AND DISTRICT
COURT JUDGE VIRGINIA ANNE
PHILLIPS FOR CAUSE; DECLARATION
OF PAUL HUPP IN SUPPORT

I
Introduction

To the United States District Court for the Central District of California ("COURT"), Plaintiff Paul Hupp ("PHUPP") HEREBY Files THIS Motion to Disqualify Magistrate Judge Sheri Nicole Pym (SBN# 175062 ("PYM")) and District Court Judge Virginia Anne Phillips (SBN# 105237 (PHILLIPS")) *for cause* pursuant to Under 28 U.S.C. §§ 144, 455.

II
Memorandum of Points and Authorities

PHUPP brings this motion based on bias¹ of PYM and PHILLIPS as it relates to a prior ruling declaring PHUPP a "Vexation Litigant" in case EDCV-16-00370 VAP (SP). Under 28 U.S.C. §144, whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding *See* 28 U.S.C. §144; Pesnell v. Arsenault, 543 F.3d 1038, 1043 (9thCir. 2008); U.S. v. Johnson, 610 F.3d 1138, 1147 (9thCir. 2010). Section 144 also provides that "[t]he affidavit shall state the facts and the reasons for the belief that bias and prejudice exists... [and a] party may only file one such affidavit in any case." *See United States v. Sibla*, 624 F.2d 864, 867 (9thCir. 1980). 28 U.S.C. §144 expressly conditions relief upon the filing of a timely and legally sufficient affidavit/declaration. *Id.* (citing, *inter alia*, United States v. Azhocar, 581 F.2d 735, 738-40 (9thCir. 1978), cert. denied 440 U.S. 907 (1979). "If the judge to whom a timely motion is directed determines that the accompanying

¹ Under 28 U.S.C. §144, whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit or declaration that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding. 28 U.S.C. §144 provides the affidavit or declaration shall state the facts and the reasons for the belief that bias and prejudice exists. Plaintiff has stated such facts of bias here.

1 affidavit specifically alleges facts stating grounds for recusal under 28 U.S.C. §144, the legal
 2 sufficiency of the affidavit has been established, and the motion must be referred to another
 3 judge for a determination of its merits.” *Id.* (citing Azhocar, 581 F.2d at 738).

4 Under 28 U.S.C. §455(a), “Any ... judge ... shall disqualify himself in any proceeding in
 5 which his impartiality might reasonably be questioned.” *See Pesnell* at 1043. 28 U.S.C. § 455(b)
 6 provides in relevant part, “...he shall also disqualify himself in the following circumstances:
 7 [w]here he has a personal bias or prejudice concerning a party ...” *See* 28 U.S.C. §455(b)(1). A
 8 motion under § 455 is addressed to, and must be decided by, the judge/s [PYM and PHILLIPS]
 9 whose impartiality is being questioned.” *See Bernard v. Coyne*, 31 F.3d 842, 843 (9thCir. 1994).
 10 “Section 455 clearly contemplates that decisions with respect to disqualification should be made
 11 by the judge sitting in the case, and not by another judge.” *Id.*, quoting United States v.
 12 Balistreri, 779 F.2d 1191, 1202 (7thCir. 1985). “Section 455 includes no provision for referral
 13 of the question of recusal to another judge; if the judge sitting on the case is aware of grounds for
 14 recusal under section 455, that judge has a duty to recuse himself or herself.” *See Sibla*, 624 F.2d
 15 at 868. Because “ ...the test for personal bias or prejudice in section 144 is identical to that in
 16 section 455(b)(1) ... a motion properly brought pursuant to section 144 will raise a question
 17 concerning recusal under section 455(b)(1) as well as section 144.” *See Sibla*, at 867.

18
 19 **PYM and PHILLIPS, in case EDCV-16-00370 VAP (SP), re-litigated a “Vexation**
 20 **Litigant” issue that had already been fully and fairly litigate on the merits, and denied, in a**
 21 **previous civil action less than three (3) years prior. *See Hupp v. San Diego County District***
 22 ***Attorney et al*, Case No.: 12-cv-492 IEG (RBB), Docket #35, P.2, Footnote 1, dated June 4,**
 23 **2012. PYM and PHILLIPS simply repeated *allegations* that the Attorney General of**
 24 **California had made in 12-cv-492 IEG (RBB), *identical allegations*, which were DENIED**
 25

1 June 4, 2012. Issue and claim preclusion (res judicata and collateral estoppel) prevented
 2 PYM and PHILLIPS from getting a “do-over” because they did not like the outcome of
 3 Judge Gonzales June 4, 2012, ruling. The most telling factor in PYM and PHILLIPS
 4 declaring PHUPP, and his mother Aristeia Hupp (“AHUPP”) as “Vexatious Litigants” in
 5 EDCV-16-00370 VAP (SP) is that neither addressed the most relevant and material fact,
 6 that the Presiding United States District Court Judge for the Southern District of
 7 California, Judge Irma E. Gonzalez. Judge Gonzalez refused to make the “finding”
 8 requested by the Attorney General, that PHUPP was a “Vexatious Litigant”. When the
 9 facts and law do not agree with your argument or ruling it appears that the best thing for
 10 PYM and PHILLIPS to do is ignore both, not mention either, and hope it goes away.

11
 12 These are arguments made previously by Plaintiff, on July 14, 2016, in case EDCV-16-
 13 00370 VAP (SP). Plaintiff by this reference incorporates that case and Judge Gonzales June 4,
 14 2012, ruling for the requisite showing of bias by PYM and PHILLIPS.

15 III 16 Conclusion

17 For the reasons set forth *supra* Plaintiff prays that the COURT GRANT Plaintiff's
 18 Motion to disqualify both PYM and PHILLIPS for cause.

19 IV 20 Declaration

21 I, **Paul Hupp**, the above-entitled Respondent, declare the following;

- 22 1. I have personal knowledge of all statements and exhibits in this declaration.
- 23 2. If called upon to testify to this declaration in a court of competent jurisdiction I
 24 could and would testify to everything stated herein.
- 25 3. PYM and PHILLIPS declared Plaintiff and his mother, Aristeia Hupp, “Vexation
 Litigants” in case EDCV-16-00370 VAP (SP). Aristeia Hupp had only filed four

(4) cases total in her entire life in Federal Court. Plaintiff had filed 33 cases in the previous 13 years, of which four (4) were related to the State Bar and Magistrate Judge Rosalyn Merle Chapman (whom PYM ironically replaced), four (4) were Habeas Corpus actions, three (3) were related bankruptcy actions, and one (1) Writ of Coram Nobis in the Southern District of CA; 12 in total and all of which Plaintiff was entitled to file as a matter of law, leaving just 21 various actions in the Southern and Central Districts of California over a 13 year period. All of which had merit to be filed because they were all filed under IFP applications, which required a finding of merit prior to granting the IFP and filing of the action.

4. Particularly troubling by PYM and PHILLIPS ruling on their “Vexation Litigants” OSC in case EDCV-16-00370 VAP (SP) was that it was identical in virtually every respect to a previous Motion to have Plaintiff declared a “Vexation Litigant” in a prior case in the Southern District of California less than three (3) years prior, in Hupp v. San Diego County District Attorney et al, Case No.: 12-cv-492 IEG (RBB), Docket #35, P.2, Footnote 1, dated June 4, 2012. The Attorney General of California made the identical allegations that PYM and PHILLIPS made using the exact same cases. The AG’S “Vexation Litigant” Motion was **DENIED**. Denied by the Presiding United States District Court Judge for the Southern District of California, Judge Irma E. Gonzalez. Judge Gonzalez refused to make the “finding” requested by the AG, that Plaintiff was a “Vexatious Litigant”. Judge Gonzalez would not even make the finding that the statements in the referenced cases are “factually true”. That ended any “Vexatious Litigant” issue on those cases. The AG’S “Vexatious Litigant” motion was DENIED and

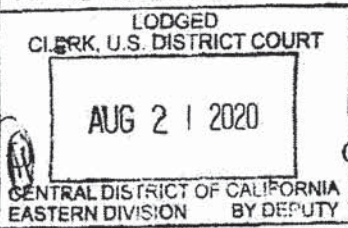
5. PHUPP raised these facts in his opposition to PYM and PHILLIPS "Vexatious Litigant" OSC.
6. By this reference Plaintiff incorporates his July 12, 2016, Opposition to PYM and PHILLIPS "Vexatious Litigant" OSC. Even though these issues were the heart of Plaintiff's Opposition to PHILLIPS "Vexatious Litigant" OSC, they were not addressed by PHILLIPS, nor litigated in the appeal following case EDCV-16-00370 VAP (SP); they are therefore ripe for review and are properly before this Court now.

Executed at: Beaumont CA, on August 10, 2020.

/s/ Paul Kupp

Paul Hupp

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA. 92223
In Propria Persona



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Paul Hupp,

Plaintiff,

v.

Case No.: CV-20-

County of Riverside,
City of Beaumont,
Solera Oak Valley Greens Association,
Richardson Harman Ober, PC,
Richardson Ober, PC,
Thomas Harry Cahraman,
Rebecca Lynn Dugan,
John Washburne Vineyard,
Carol Anne Greene,
Debre Katz Weintraub,
Samiuela F. Taloa,
Wanda Joyce Bartholomew,
Richard Allen Beyl,
Kelly Gene Richardson,
Jonathan Robert Davis,
Theodore Hyun Dokko,
Todd Halbeisen,
Miguel Macias,
Lyndon Peats,
John Simpson,
Wayne Wolcott,
Virginia Anne Phillips,
Roes 1-10,
Individually, Individually, Jointly, Jointly and
Severally,

Defendants.

**PLAINTIFF PAUL HUPP'S REQUEST TO
FILE NEW LITIGATION**

I
Introduction

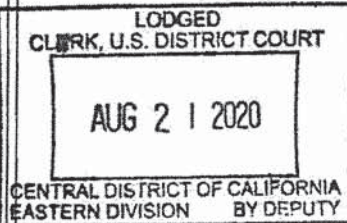
1 To the United States District Court for the Central District of California ("COURT"),
2 Plaintiff Paul Hupp ("PHUPP") HEREBY Files "Request to File New Litigation".

3 Dated this 10th day of August, 2020

4 /s/ Paul Hupp
5 Paul Hupp
6 965 Hidden Oaks Drive
7 Beaumont, CA. 92223
8 *In Propria Persona*
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1 Paul Hupp
 2 965 Hidden Oaks Drive
 3 Beaumont, CA. 92223
 4 *In Propria Persona*

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Paul Hupp,

Plaintiff,

v.

County of Riverside,
 City of Beaumont,
 Solera Oak Valley Greens Association,
 Richardson Harman Ober, PC,
 Richardson Ober, PC,
 Thomas Harry Cahraman,
 Rebecca Lynn Dugan,
 John Washburne Vineyard,
 Carol Anne Greene,
 Debre Katz Weintraub,
 Samiuela F. Taloa,
 Wanda Joyce Bartholomew,
 Richard Allen Beyl,
 Kelly Gene Richardson,
 Jonathan Robert Davis,
 Theodore Hyun Dokko,
 Todd Halbeisen,
 Miguel Macias,
 Lyndon Peats,
 John Simpson,
 Wayne Wolcott,
 Virginia Anne Phillips,
 Roes 1-10,
 Individually, Individually, Jointly, Jointly and
 Severally,

Defendants.

Case No.: CV-20-

PLAINTIFF PAUL HUPP'S NOTICE OF
 EMERGENCY *EX PARTE* APPLICATION
 PURSUANT TO LOCAL RULE 7-19 FOR
 TEMPORARY RESTRAINING ORDER;
 MOTION FOR PERMANENT
 INJUNCTION; POINTS AND
 AUTHORITIES; DECLARATION IN
 SUPPORT (ORAL ARGUMENT
 REQUESTED)

Time:
 Date:
 Courtroom:
 Judge:

I
Introduction

To the United States District Court for the Central District of California ("COURT"), Defendants County of Riverside ("COUNTY"), City of Beaumont ("CITY"), Solera Oak Valley Greens Association ("SOLERA"), Richardson Harman Ober, PC ("RHO"), Richardson Ober PC ("RO"), Thomas Harry Cahraman ("CAHRAMAN"), Rebecca Lynn Dugan ("DUGAN"), John Washburne Vineyard ("VINEYARD"), Carol Anne Greene ("GREENE"), Debre Katz Weintraub ("WEINTRAUB"), Samiuela F. Taloa ("TALOA"), Wanda Joyce Bartholomew ("BARTHOLOMEW"), Richard Allen Beyl ("BEYL"), Kelly Gene Richardson ("RICHARDSON"), Jonathan Robert Davis ("DAVIS"), Theodore Hyun Dokko ("DOKKO"), Todd Halbeisen ("HALBEISEN"), Miguel Macias ("MACIAS"), Lyndon Peats ("PEATS"), John Simpson ("SIMPSON"), Wayne Wolcott ("WOLCOTT") Virginia Anne Phillips ("PHILLIPS") and Roes 1-10 (collectively "DEFENDANTS") and all other parties of interest, pursuant to Local Rule 7-19, Plaintiff Paul Hupp ("Plaintiff") HEREBY GIVES Notice of Emergency *Ex Parte* to issue a temporary restraining order ("TRO") to stay and enjoin DEFENDANTS, based on irreparable harm caused to Plaintiff by DEFENDANTS, from any further criminal prosecution of Plaintiff in State Court by COUNTY, including TALOA. This includes, but is not limited to cases, RIF-1902599 and RIM-1913990.

Plaintiff further seeks a motion date for a permanent injunction after notice and opposition. The TRO will remain in effect until COURT has heard argument and can make a ruling to grant or deny a permanent injunction. Hearing will be held at 9:00 AM in Dept.: , at

1 the United States District Court for the Central District of California, Eastern Division,
 2 Riverside, CA, 92501¹.

3
 4 **II**
Memorandum of Points and Authorities

5 This request for TRO concerns ongoing collusion between COUNTY, Deputy District
 6 Attorney TALOA and multiple Riverside County Superior Court judges; including
 7 CAHRAMAN, DUGAN and VINEYARD who have colluded with COUNTY and TALOA to
 8 file multiple felony criminal charges in case RIF-1902599, all of which lack “probable cause”
 9 (“PC”). RIF-1902599 lacks PC because the felony charges are based on free speech;
 10 constitutionally protected free speech under the First Amendment. In addition to the felony
 11 charge, COUNTY has filed a misdemeanor charge, RIM-1913990, that was direct retaliation
 12 against Plaintiff’s free speech, and clearly violates the Federal Right to a speedy trial secured by
 13 the Sixth Amendment. COUNTY has filed six (6) different criminal cases against Plaintiff since
 14 2013, five (5) since 2017, with 13 different charges. Two (2) of the six (6) cases, RIF-1902599
 15 and RIM-1913990, are still pending. Of the prior four (4) cases, the first (1) case was dropped
 16 the day of trial; the second (2) case was dropped the day of trial, the third (3) case was dropped
 17 the day of trial, the fourth (4) case was thrown out by the judge after the jury had been sworn
 18 because the statute of limitation (“SoL”) had expired. Of the five (5) different charges in RIF-
 19 1902599, the original single charge of Penal Code §76a- Threatening a Public official” (“§76a”),
 20 filed June 20, 2019, was dismissed at preliminary hearing on December 2, 2019, for violating the
 21 “Litigation Privilege” (“PRIVILEGE”) under Civil Code §47(b) (“§47(b)”). §76a would have
 22
 23
 24

25 ¹ As of today the COURT is closed down due to COVID-19 and all parties should expect to participate in the *Ex Parte* Hearing telephonically. Whether appearance is in person or telephonically, the parties will be notified 24 hours in advance by Plaintiff on how to appear.

1 been dismissed in any event because §76a is facially, and “as applied”, unconstitutional. §76a
 2 violates the constitutionally protected free speech under the First Amendment. §76a lacked PC to
 3 file because it is privileged under §47(b). Three (3) days after §76a was tossed out, December 5,
 4 2019, misdemeanor case BAM-1903181 was thrown out because the SoL had expired, but only
 5 after a jury had been picked and sworn in. BAM-1903181 also lacked PC to file because the SoL
 6 had expired. 10 days after §76a was tossed out, December 12, 2019, COUNTY filed an
 7 information alleging four (4) new felony charges, all four (4) new violations in RIF-1902599
 8 were filed under Penal Code §69- Resisting an Executive Officer (“§69”). The four (4) §69
 9 charges all lack PC because they were based on speech, constitutionally protected free speech
 10 under the First Amendment. And even if the speech was not protected, the factual circumstances
 11 were identical to the §76a charge, the speech was contained in legal papers filed in litigation with
 12 the Court Clerk, which means §69 charges, like the prior §76a charge, lacked PC to file because
 13 it is privileged under §47(b).

15 The same day that the four (4) new §69 violations were filed in RIF-1902599, December
 16 12, 2019, COUNTY filed a new misdemeanor case, RIM-1913990. RIM-1913990 had the exact
 17 same *alleged* victim and the exact same charge as in BAM-1903181, the case that had been
 18 tossed out after a jury had been picked and sworn in just a week prior, December 5, 2019. But
 19 the *alleged* charges in RIM-1913990 occurred on December 17, 2018, which means the charge
 20 was on day number 360 of the 365 day SoL. RIM-1913990 violates a legion of State laws,
 21 including PC §1050.

23 **1. All Speech Is Protected Except Eight (8) Narrowly Tailored Categories**

24 RIF-1902599 allege felony charges of §69. Alleged felonies based purely on speech;
 25 written words. Speech consisting only of written words and nothing more. Words that on their

1 face do not constitute any unlawful conduct. The alleged felony charges are not supported by PC
2 because they are 100% protected under the First Amendment of the United States Constitution.

3 Exceptions to "Free Speech" in the United States fall into eight (8) very specific, and
4 very limited, categories of speech. These categories of speech that are given lesser, or no
5 protection at all by the First Amendment are extremely limited in scope and breadth. They are all
6 narrowly tailored. Speech that is not protected by the First Amendment are: 1) **obscenity**; 2)
7 **fraud**; 3) **child pornography**; 4) **speech integral to illegal conduct**; 5) **speech that incites**
8 **imminent lawless action**; 6) **speech that violates/infringes intellectual property**; 7) **true**
9 **threats (criminal threats)**; and 8) **commercial speech**. The Supreme Court of the United
10 States, under the First Amendment of the United States Constitution, protects legitimate "Free
11 Speech", allowing for limitations of speech only if they encompass one (1) or more of those
12 eight (8) enumerated, very specific, narrowly drawn and limited categories of unprotected
13 speech. All other speech will be considered "Free Speech". All speech is therefore "Free Speech"
14 unless it clearly, distinctly and unequivocally falls into one (1) or more of the eight (8) limited
15 categories of unprotected speech. Any state or federal law that infringes on speech will be
16 deemed invalid, and unlawful, unless the speech clearly, distinctly and unequivocally fall into
17 one (1) or more of the eight (8) limited categories of unprotected speech. The United States
18 Constitution is the supreme law of the land under the "Supremacy Clause" of the United States
19 Constitution. The First Amendment of the United States Constitution is superior to all state and
20 federal statutes. It is superior to all county and local statutes. It is superior to all municipal
21 statutes. If a state or federal statute infringes on any speech, and that speech does NOT fall into
22 one (1) or more of those eight (8) limited categories of unprotected speech, then said speech is
23 deemed "Free Speech" and it is constitutionally protected and the statute is invalid, not the "Free
24
25

Speech". Likewise, any county, local or municipal statute that infringes on speech that does not clearly, distinctly and unequivocally fall into one (1) or more of those eight (8) categories of unprotected speech violates the First Amendment of the United States Constitution and is per se unconstitutional. Plaintiff's speech were statements made in legal pleadings to the effect that if DUGAN and VINEYARD refused grant or deny his submitted papers he would meet with them in person to get a ruling, one way or the other. Plaintiff's argument was drafted and filed in a motion to dismiss more than six (6) months ago and has still not received a hearing date; that motion is attached as "Exhibit #1".

2. Federal Court Intervention Based on "BAD FAITH" Prosecution; Federal Restraint of State Courts by Federal Injunctions Allowed for "BAD FAITH" Prosecutions; Anti-Injunction Act Does Not Apply to "BAD FAITH" Prosecutions

The SCOTUS has ruled that a federal court may enjoin a State from a criminal prosecution if the statute being charged infringes on First Amendment (freedom of speech, access to the courts) rights and is a result of a BAD FAITH filing/prosecution. Such a state BAD FAITH prosecution will be enjoined when an overbroad statute, a statute that reaches both protected and unprotected expression and conduct, such as the speech in this case, might/does critically impair the exercise of constitutionally protected rights; allowing a federal court to enjoin the State thereof.

Furthermore, it is clear in this action that the *alleged* criminal conduct is not met by the "probable cause" standard, or any standard whatsoever. That in and of itself is BAD FAITH. So the mere fact that the State has brought this criminal action, without "probable cause", and has been able to keep it in the court system for more than one (1) year, establishes that it is over broad, or at least is being used in such a manner by the State.

1 The mere **threat** of BAD FAITH prosecution under such an overbroad statute can invoke
 2 federal court injunctions:

3 "...may deter . . . almost as potently as the actual application of sanctions. . . ." See
 4 Dombrowski v. Pfister, 380 U.S. 479,486 (1965).

5 In such cases courts could no longer embrace:

6 "[t]he assumption that defense of a criminal prosecution will generally assure ample
 7 vindication of constitutional rights," because: 1) the mere threat of prosecution; 2) or the
 8 long wait between prosecution and final vindication could result in a "chilling effect upon
 9 the exercise of First Amendment rights." See Dombrowski at 487.

10 This principle established by the SCOTUS was two-phased:

11 "(1) a federal court should **not** abstain when there is a facially unconstitutional statute
 12 infringing upon speech and application of that statute discourages protected activities;
 13 and 2) the court should **enjoin** the state proceedings when there is a prosecution, *or even*
 14 **the threat of prosecution**, under an overbroad statute regulating expression, if the
 15 prosecution **or threat of prosecution** chills the exercise of freedom of expression." See
 16 Cameron v. Johnson, 381 U.S. 741 (1965); Cameron v. Johnson, 390 U.S. 611 (1968).

17 Dombrowski allows Federal Courts to enjoin State Courts in criminal prosecutions in
 18 very limited circumstances. Those limited circumstances are met in the fraudulent prosecution of
 19 RIF-1902599. These fundamental rights were reaffirmed two (2) years later in Zwickler v.
 20 Koota, 389 U.S. 241 (1967). **In Zwickler the SCOTUS deemed abstention improper.** See
 21 Zwickler at 248-252.

22 Dombrowski was limited and narrowed under Younger v. Harris, 401 U.S. 37 (1971), but
 23 not reversed. The limitations imposed under Younger would not apply in this action because
 24 Plaintiff has alleged, and documented, multiple/repeated bad faith criminal prosecutions by DA,
 25 and even more bad faith acts (and collusion with DA) by multiple Riverside County Judges. If
 RIF-1902599 and the other six (6) cases and 12 different charges brought by COUNTY was
 "good faith" enforcement of California's criminal laws there would not be a problem; the

1 problem is ALL six (6) of the cases and all 12 different charges have gone to trial, only to be
 2 dropped by COUNTY the day of trial, dropped after the jury was sworn in in case BAM-
 3 1903181 because the SoL had expired, or dismissed at the preliminary hearing with the §76a
 4 charge. The multiple bad faith prosecutions of Plaintiff form a “pattern of harassment” that
 5 entitles Plaintiff to federal injunctive relief and is exempt from Younger. The multiple/repeated
 6 bad faith criminal prosecutions by COUNTY against Plaintiff are unparalleled.

7
 8 “The Anti-Injunction Act” (“ACT”; *See* 28 U.S.C. § 2283) prevents Federal Courts from
 9 enjoining State Court criminal prosecutions in nearly all cases; one (1) of the few exceptions is
 10 when a State *threatens* to criminally prosecute in *violation of* First Amendment rights, such as
 11 free speech or access to the Courts. RIF-1902599 has multiple violations free speech, the main
 12 exception to The Anti-Injunction Act. In addition COUNTY and TALOA have stated they may
 13 file more felony charges against Plaintiff concerning his speech, speech that is identical to the
 14 speech here, constitutionally protected free speech under the First Amendment.

15 **3. Violation of Federal Speedy Trial Under Sixth Amendment**

16 The Federal speedy trial analysis is completely different from the State speedy trial
 17 analysis, under the Federal speedy trial analysis a defendant ne dot show any prejudice at all, a
 18 mere delay by the prosecution that is unwarranted is enough. Barker v. Wingo, 407 U.S. 514
 19 (1972) is the leading case on the Federal right to speedy trial and includes a four (4) factor
 20 analysis. The Barker analysis uses four (4) factors to be considered in determining whether a
 21 criminal defendant’s constitutional right to a speedy trial has been violated: “[1] Length of delay,
 22 [2] the reason for the delay, [3] the defendant's assertion of his right, and [4] prejudice to the
 23 defendant.” *See Barker* at 530. The first two (2) Barker factors, the “length of the delay” and the
 24 prosecuting attorneys “reason for the delay”, weighs heavily in the Barker analysis.
 25

Length of Delay

“The length of the delay is to some extent a triggering mechanism. Until there is some delay which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into the balance.” See Barker at 530. analysis. “The first of these is actually a double enquiry. Simply to trigger a speedy trial analysis, an accused must allege that the interval between accusation and trial has crossed the threshold dividing ordinary from ‘presumptively prejudicial’ delay [citation] since, by definition, he cannot complain that the government has denied him a ‘speedy’ trial if it has, in fact, prosecuted his case with customary promptness. If the accused makes this showing, the court must then consider, as one factor among several, the extent to which the delay stretches beyond the bare minimum needed to trigger judicial examination of the claim. [Citation.] This latter enquiry is significant to the speedy trial analysis because . . . the presumption that pretrial delay has prejudiced the accused intensifies over time.” (*Doggett v. United States* (1992) 505 U.S. 647, 651-652.) A delay of one year can create a presumption of prejudice. (*Id.* at pp. 655-656; *People v. Williams* (2013) 58 Cal.4th 197, 234-235 [seven year delay in bringing a capital case was presumptively prejudicial].)

“Under the federal Constitution, the defendant need not identify any specific prejudice from an unreasonable delay in bringing the defendant to trial after the speedy trial right has attached. See *Moore v Arizona* 414 U.S. 25, 26 (1973) Instead, delay that is ‘uncommonly long’ triggers a presumption of prejudice, with the presumption intensifying as the length of the delay increases. See *Doggett v. United States*, 505 U.S. 647, 651-652, 656-657 (1992); see also *Leaututufu v. Superior Court*, 202 Cal.App.4th Supp. 1, 8 (2011), [“it is important to distinguish between (i) the prejudice required to initiate a *Barker* analysis (presumed prejudice is sufficient), and (ii) the prejudice that the court considers when engaging in the *Barker* four factor analysis (prejudice is required, but extreme delay in light of the charge can create a conclusive presumption of such prejudice)”].) Bold and underline added.

Delay in and of itself is “prejudice” under Barker. RIM-1913990 was filed on day number 360 of a 365 day SoL. “The presumption that pretrial delay has prejudiced the accused intensifies over time”, and “delay that is ‘uncommonly long’ triggers a presumption of prejudice, with the presumption intensifying as the length of the delay increases...” Unless COUNTY can give a valid reason for the “uncommonly long” delay in filing RIM-1913990 under the second prong of Barker RIM-1913990 must be dismissed for violating the Federal right to a speedy trial. The “uncommonly long” was because it was retaliation against Plaintiff by COUNTY.

III

1 Conclusion

2 For the reasons set forth *supra* Plaintiff prays that the COURT GRANT Plaintiff's
3 Emergency *Ex Parte* Application and TRO, to prevent irreparable harm being caused to Plaintiff,
4 until a full hearing on the merits can be held and a ruling on a permanent injunction is granted or
5 denied.

6 IV
7 Declaration

8 I, **Paul Hupp**, the above-entitled Respondent, declare the following;

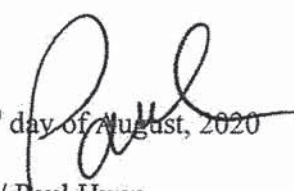
- 9 1. I have personal knowledge of all statements and exhibits in this declaration.
- 10 2. If called upon to testify to this declaration in a court of competent jurisdiction I
11 could and would testify to everything stated herein.
- 12 3. All Exhibits attached to or referenced in this brief, are true and correct copies of
13 the originals, which I have in my personal possession.

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct except for those portions based on information and belief and for
16 those portions I believe them to be true.

17 Executed August 10, 2020, Beaumont, CA

18 Respectfully submitted.

19
20 Dated this 10th day of August, 2020

21 
/s/ Paul Hupp

22 Paul Hupp
23 965 Hidden Oaks Drive
24 Beaumont, CA. 92223
25 *In Propria Persona*

EX #1

1 Paul Hupp
 2 965 Hidden Oaks Drive
 3 Beaumont, CA 92223
 4 *In Propria Persona*

5 SUPERIOR COURT OF CALIFORNIA

6 COUNTY OF RIVERSIDE

7)
 8)
 9 People of the State of California,

10 Plaintiff,

11 vs.,

12 Paul Hupp,

13 Defendant.

) Citation No. Case No.: RIF-1902599

) Date Issued: June 20, 2019

) **DEFENDANT PAUL HUPP'S NOTICE OF**
) **MOTION AND MOTION TO: 1)**
) **DISQUALIFY RIVERSIDE COUNTY**
) **DISTRICT ATTORNEY *FOR CAUSE*; 2)**
) **DISMISSAL OF ENTIRE ACTION FOR**
) **LACK OF PROBABLE CAUSE;**
) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES; DECLARATION OF**
) **PAUL HUPP IN SUPPORT**

) Date: February 24, 2020

) Dept.: S20 (San Bernardino County Court)

) Time: 8:30AM

) Judge: Hon. George Tavill

16 **I**

17 **Introduction**

18 To the Superior Court of Californian, County of Riverside ("Court"), the Superior Court
 19 of San Bernardino and Hon. George Tavill (calendared for all purposes), Riverside County
 20 District Attorney ("DA") and all other interested parties, defendant Paul Hupp ("PHUPP")
 21 hereby files this motion to disqualify the Riverside County District Attorney ("DA") for cause of
 22 misconduct. Said Motion is to be heard on February 24, 2020, in Dept. S20, at 8:30 AM, or as
 23 soon thereafter as this motion may be heard, at San Bernardino Superior Court, San Bernardino,
 24 CA.
 25

II
Memorandum of Points and Authorities

PHUPP hereby moves this Court to disqualify DA from prosecuting this action, or any related action, due to extensive misconduct. Misconduct that involves the entire Riverside County Bench as well as third party private actors, such as Solera Oak Valley Greens Association ("SOLERA"); SOLERA'S law firm; City of Beaumont ("BEAUMONT") and BEAUMONT'S law firm. PHUPP has been involved in extensive civil litigation with BEAUMONT since 2011. PHUPP and his family have been involved with civil litigation with SOLERA and BEAUMONT since 2015. DA filed the false, bogus *allegations* after colluding with the Riverside County Bench. Furthermore, this is a "pattern and practice" of DA, having repeatedly filed false charges against PHUPP going back to 2013. Charges that lack "probable cause". False charges the DA then drops the day of trial.

1. Felony Allegations in RIF-1902599 Are 100% Protected Free Speech; Lack Probable Cause

This case involves the *allegation* of felony charges. *Alleged* felonies based purely on speech; written words. Speech consisting *only* of written words; nothing more. Words that on their face do not constitute *any* unlawful conduct. The *alleged* felony charges are not supported by probable cause ("PC") because they are 100% protected under the First Amendment of the United States Constitution.

Exceptions to "Free Speech" in the United States fall into eight (8) very specific, and very limited, categories of speech. These categories of speech that are given lesser, or no protection at all, by the First Amendment are extremely limited in scope and breadth. They are all narrowly tailored. Speech that is not protected by the First Amendment are: 1) **obscenity**; 2)

1 fraud; 3) child pornography; 4) speech integral to illegal conduct; 5) speech that incites
2 imminent lawless action; 6) speech that violates/infringes intellectual property; 7) true
3 threats (criminal threats); and 8) commercial speech. The Supreme Court of the United
4 States, under the First Amendment of the United States Constitution, protects legitimate "Free
5 Speech", allowing for *limitations* of speech *only* if they encompass one (1) or more of those eight
6 (8) enumerated, very specific, narrowly drawn and limited categories of unprotected speech. All
7 other speech will be considered "Free Speech". All speech is therefore "Free Speech" unless it
8 clearly, distinctly and unequivocally falls into one (1) or more of the eight (8) limited
9 categories of unprotected speech.
10

11 Any state or federal law that infringes on speech will be deemed invalid, and unlawful,
12 unless the speech clearly, distinctly and unequivocally fall into one (1) or more of the eight (8)
13 limited categories of unprotected speech. The United States Constitution is the supreme law of
14 the land under the "Supremacy Clause" of the United States Constitution.
15

16 The First Amendment of the United States Constitution is superior to all state and federal
17 statutes. It is superior to all county and local statutes. It is superior to all municipal statutes. If a
18 state or federal statute infringes on any speech, and that speech does NOT fall into one (1) or
19 more of those eight (8) limited categories of unprotected speech, then said speech is deemed
20 "Free Speech" and it is constitutionally protected and *the statute is invalid*, not the "Free
21 Speech". Likewise, any county, local or municipal statute that infringes on speech that does not
22 clearly, distinctly and unequivocally fall into one (1) or more of those eight (8) categories of
23 unprotected speech violates the First Amendment of the United States Constitution and is *per se*
24 unconstitutional.
25

1 The felony *allegations* DA filed against PHUPP'S "speech" does NOT fall into any of
 2 the eight (8) very specific, and very limited, categories of unprotected speech. PHUPP'S
 3 "speech" is therefore "Free Speech" and is constitutionally protected, fully protected. PHUPP
 4 has committed no crime. DA does not even have "Probable Cause". DA lacks *any* PC
 5 whatsoever to file *any* charges; felony or misdemeanor, based on PHUPP'S fully protected "Free
 6 Speech".

7
 8 **2. DA Has Filed Multiple Misdemeanor Cases That Violate Penal Code §1050**

9 But the false allegations do not stop with the *alleged* felonies in RIF-1902599. DA has
 10 filed two (2) misdemeanor cases against PHUPP since August 21, 2019; BAM-1903181 and
 11 RIM-1913990. RIM-1913990 apparently¹ involves a misdemeanor allegation of PC 166(a)(4)
 12 that involves an incident 360 days "stale" involving an *alleged* "victim" where there have been
 13 two (2) PRIOR TRIALS to the December 12, 2019, filing date (BAM-1702375, BAM-1903181)
 14 with *identical allegations*. DA could have brought both cases prior to the filing dates. DA has
 15 violated, and engaged in, misconduct under Penal Code §1050.

16 **3. DA Has Engaged in Multiple Acts of Misconduct With Riverside County**
 17 **Judges**

18 There have been numerous instances of judicial misconduct between the Riverside
 19 COURT and DA involving PHUPP and various COURT judges; all of which are documented in
 20 this brief. But to easily summarize the type of judicial misconduct that the Riverside COURT has
 21 been engaging in going back to June 14, 2017, we just have to document the misconduct of the
 22 District Attorney ("DA"), through Deputy District Attorney Samiuela Feke'ila Taloa
 23 ("TALOA"), with Judge Carol Anne Greene ("GREENE") on January 21, 2020. The conduct of
 24

25
¹ Defendant is speculating because Defendant has no idea who the charge involves as no discovery of any type has been turned over. Nor has any Law Enforcement Officer, or investigator of any kind, ever contacted Defendant.

1 DA, TALOA and GREENE are typical, but not exhaustive, of the illegal and unlawful criminal
2 conduct engaged in by the Riverside COURT and DA.

3 On January 21, 2020, at or around 10:00-10:15 AM, PHUPP was waiting in the hallway
4 of Dept. 64 of Riverside COURT and decided to go in and watch an ongoing trial in Dept. 62 of
5 Riverside COURT: People v. Ancel Yamil Romanrodriguez, case no.: RIF-1800345. PHUPP
6 walked into Dept. 62, and took a seat in the back row on the right side (facing bench), directly
7 adjacent to the swinging door entryway. The judge in Dept 62 was "Carol Ann Greene"
8 ("GREENE"), State Bar Number ("SBN") 146457. A trial had just started and appeared as if
9 opening statements were about to be given. TALOA, SBN 304502, appeared to be the
10 prosecuting attorney. After PHUPP walked in and sat down the Deputy Sheriff, who serves as
11 the Court Bailiff ("BAILIFF"), approached PHUPP and asked if PHUPP was a "witness".
12 PHUPP said "no", PHUPP was just a member of the public watching the trial. At that point
13 TALOA turned around, saw PHUPP and asked for a "side-bar" with GREENE. Once TALOA
14 and defense counsel got to the "side-bar" of GREENE they spoke briefly and exited the
15 courtroom for GREENE'S chambers, without the court reporter. When the three (3) returned
16 from GREENE'S chamber GREENE informed the jury that they had to have a short break and
17 asked them to leave the courtroom for a few minutes. The jury left, at which point the BAILIFF
18 ordered PHUPP to leave also. As PHUPP left, and was in the small area sealed entry between the
19 hallway and the courtroom, the BAILIFF said PHUPP was being ORDERED OUT of the
20 courtroom because "TALOA" did not want PHUPP there; and not to return. PHUPP informed
21 BAILIFF that the courtroom was a public place and PHUPP had a constitutionally protected
22 right under the First Amendment to attend any and all public court trials. The BAILIFF said he
23 didn't "care" and that he could, and would, arrest PHUPP for "trespassing" if PHUPP returned.
24
25

1 PHUPP asked if he could speak with the judge regarding this issue, as it was very serious; the
2 BAILIFF "NO". Leave and do not return or "go to jail".

3 GREENE has absolutely no authority whatsoever to kick PHUPP, *or anyone else*, out of
4 a public courtroom. What is far more troubling is that GREENE conspired with a DDA, with
5 TALOA, in her criminal acts.

6 First, GREENE and TALOA spoke to each other about PHUPP, *ex parte*, at a "side-bar",
7 without PHUPP present, for the sole purpose to violate PHUPP'S constitutionally protected
8 rights.

9 Second, GREENE and TALOA spoke to each other about PHUPP, *ex parte*, in chambers
10 without PHUPP present.

11 Third, GREENE and TALOA spoke to each other about PHUPP, *ex parte*, at a "side-
12 bar" *and* in chambers, without PHUPP present *and without a court reporter present* to record the
13 conversation for the record.

14 Fourth, after the jury had been excused, and without speaking to PHUPP in any manner
15 whatsoever, GREENE (at TALOA'S request) instructed her BAILIFF to bar PHUPP from re-
16 entering the public courtroom; and if PHUPP tried to reenter to ARREST PHUPP.

17 When judges and parties, especially a DDA in criminal trial, engage in *ex parte*
18 communications then misconduct is *presumed*. In the instant case it was/is obvious, and beyond
19 any dispute, that GREENE and TALOA spoke to each other regarding PHUPP *ex parte*, and
20 knowingly, willfully and intentionally conspired to have PHUPP removed from the courtroom;
21 without PHUPP being able to make any record of their illegal and unlawful actions.

22 TALOA has also conspired with other third party actors to engage in an unlawful and
23 illegal criminal conspiracy to file false criminal charges and to violate PHUPP'S constitutionally
24
25

protected rights. These third parties include the: 1) Riverside County Probation Department; Riverside County Judge Thomas Cahraman and his staff; 3) Solera Oak Valley Greens Association ("SOLERA"); and 4) City of Beaumont ("BEAUMONT"). PHUPP knows this for a fact because he has personally seen the privileged records that document and confirm this criminal conspiracy.

Last, there is a legion of prosecutorial and judicial misconduct involving the DA, COURT and PHUPP going back to 2013. This includes FIVE (5) *false* criminal charges that have been filed against PHUPP and **dropped the day of trial**, or **dropped at preliminary hearing**. These do NOT include the current *false* charges: RIM-1913990 or RIF-1902599.

	Case No. Date Filed Charge	Date of Disposition	Disposition	Note
1	BAM-1301131 <u>May 16, 2013</u> PC §415(1)	<u>July 26, 2016</u>	Dismissed day of trial, <u>July</u> <u>26, 2013</u>	1) Cased filed six (6) months after <i>alleged</i> violation; 2) First (1st) filed case dismissed day of trial.
2	BAM-1702375 <u>June 14, 2017</u> PC §M594(a)	<u>January 24, 2019</u>	Dismissed day of trial, <u>January 24,</u> <u>2019</u>	1) Cased filed on <i>allegation</i> vandalism of two (2) nine (9) cent sprinkler flags-with aggregate value of 18 cents; 2) BOND set @ \$55K on misdemeanor

1				charge of 18 cent
2				vandalism; 3) LE never
3				contacted for opposing
4				evidence; 4) Second
5				(2nd) filed case
6				dismissed day of trial;
7				5) Beaumont PD, DA,
8				Probation, <i>alleged</i>
9				victim, Solera Oak
10				Valley Greens Assoc
11				(HOA) and SOLERA
12				law firm all criminally
13				colluded with each
14				other, and together, on
15				case; 6) BPD does not
16				respond to/investigate
17				any vandalism charges,
18				even felony. DA never
19				charges vandalism on
20				any charge under \$500
21				even if BPD
22				investigated.
23	3	BAM-1702398	<u>March 27, 2019</u>	Dismissed
24		<u>June 15, 2017</u>		day of
25				trial,
				1) Cased filed on
				<i>allegation</i> of violating
				court order; 2) BOND

1	PC §166		<u>March 27,</u>	set @ \$53K on
2			<u>2019</u>	misdemeanor
3				<i>allegation</i> ; 3) LE never
4				contacted for opposing
5				evidence; 4) Third
6				(3rd) filed case
7				dismissed day of trial;
8				5) Beaumont PD, DA,
9				Probation, <i>alleged</i>
10				victim, Solera Oak
11				Valley Greens Assoc
12				(HOA) and SOLERA
13				law firm all criminally
14				colluding with each
15				other, and together, on
16				case.
17	4 RIF-1902599	<u>December 2, 2019</u>	Dismissed	1) Judge Gunn
18	<u>June 15, 2017</u>		day of Pre-	approved <i>ex parte</i> bond
19	PC §76a		Lim,	of \$150K with no
20			<u>December</u>	supporting evidence; 2)
21			<u>2, 2019</u>	No FTA's to support
22				bond amount; 3)
23				Charge did not support
24				bond amount; 4) PC
25				76a charge lacked

1				probable cause; 5) PC
2				76a is facially
3				unconstitutional; 6) LE
4				never contacted for
5				opposing evidence; 7)
6				Fourth (4th) filed case
7				dismissed prior to
8				trial.
9	5	BAM-1903181	<u>December 5, 2019</u>	Dismissed
10		<u>August 21, 2019</u>		<u>December</u>
11		PC §166		<u>5, 2019</u> , on
12				opening
13				day of
14				trial, one
15				(1) day
16				after jury
17				picked and
18				sworn in.
19				1) Cased filed on
20				<i>allegation</i> violating
21				court order; 2) Judge
22				Randall Donald White
23				unlawfully and illegally
24				set BOND @ \$5K
25				without probable cause
				@ HUPP Motion
				Hearing, as a direct
				result of Judith Michael
				Fouladi making a
				perjured "Minute
				Order" stating, falsely,
				that she had "Ordered"
				HUPP to return for a
				hearing, later that day,
				on 9-16-2019, <i>an order</i>

1 *Fouladi had no legal*
 2 *authority to make even*
 3 *if she had made it. Both*
 4 *illegal and unlawful*
 5 *orders/warrant were*
 6 *based on a single*
 7 *misdemeanor*
 8 *allegation; 3)*
 9 *Allegations were from*
 10 *July 2018, and August*
 11 *19, 2018, more than a*
 12 *year prior; 4) DDA*
 13 *Taloe repeatedly stated*
 14 *allegations were within*
 15 *SOL; 5) The*
 16 *allegations were*
 17 *identical to *allegations**
 18 *at trial in BAM-*
 19 *1702375; 6)*
 20 *Allegations outside*
 21 *SOL, *Allegations**
 22 *lacked probable and*
 23 *lacked jurisdiction; 7)*
 24 *Charge violated PC*
 25 *§1050 and People v*

1				<u>Lowe</u> , 40 Cal.4th 937	
2				(2007); 8) LE never	
3				contacted for opposing	
4				evidence; 9) No	
5				sanctions against	
6				State/DDA for	
7				knowingly, willfully	
8				and intentionally filing	
9				false charges; 10)	
10				Neither State nor DDA	
11				disciplined for bringing	
12				false charges; 11) Fifth	
13				(5th) filed case	
14				dismissed day of trial;	
15				12) Beaumont PD, DA,	
16				Probation, <i>alleged</i>	
17				victim, Solera Oak	
18				Valley Greens Assoc	
19				(HOA) and SOLERA	
20				law firm all criminally	
21				colluded with each	
22				other, and together, on	
23				case.	
24	6	RIM-1913990	<u>December 12, 2019</u>	Pending	1) Same identical
25		<u>August 21, 2019</u>			<i>allegation</i> as in BAM-

PC §166

1903181, where jury had been sworn in and could have heard the *allegation*; 2) Filed seven (7) days after BAM-1903181 was dismissed; 3) Same identical *allegation* as in BAM-1702375, where jury had been sworn in on January 24, 2019, a full blown trial ensued on identical *allegation*; 4) *Allegations* were from December 17, 2019, 360 days prior; 5) Charge violates PC §1050 and People v Lowe, 40 Cal.4th 937 (2007); 6) LE never contacted for opposing evidence; 7) No sanctions against State/DDA for

1				knowingly, willfully
2				and intentionally filing
3				charges in violation of
4				PC §1050 and <u>People v</u>
5				<u>Lowe</u> ; 8) Judge Gunn
6				set bond @ \$2,500
7				even though the
8				identical <i>allegation</i> was
9				filed, and dismissed,
10				the week prior in
11				BAM-1903181,
12				bringing the aggregate
13				total of the two (2)
14				misdemeanor Bond
15				charges to \$7,500; 9)
16				Beaumont PD, DA,
17				Probation, <i>alleged</i>
18				victim, Solera Oak
19				Valley Greens Assoc.
20				(HOA) and SOLERA
21				law firm all criminally
22				colluded with each
23				other, and together, on
24				case.
25	7	RIF-1800345	Date of Violation:	N/A
				At 10:00 - 10:15 AM,

1	<u>People v. Ancel Yamil</u>	<u>January 21, 2020</u>	HUPP attempted to
2	<u>Romanrodrigues</u>	Location of	watch an ongoing
3	Date Filed: 2018	Violation:	PUBLIC trial in Dept.
4	Charge: N/A	Criminal Courthouse,	62. The judge in Dept
5		4000 Main Street,	62 was GREENE. The
6		Dept 62.	trial and opening
7			statements were about
8		<u>Judge Perpetrator:</u>	to be given. TALOA
9		Carol Ann Greene	was DDA prosecuting.
10			After HUPP walked in
11		<u>DDA Perpetrator:</u>	and sat down TALOA
12		Samiuela Feke'ila	turned around, saw
13		Taloea	HUPP and asked for a
14			"side-bar" with
15			GREENE. TALOA and
16			defense counsel went to
17			"side-bar" of GREENE,
18			spoke briefly and
19			exited courtroom to
20			GREENE'S chambers,
21			<u>without the court</u>
22			<u>reporter</u> . When the
23			three (3) returned from
24			GREENE'S chambers
25			GREENE informed

1 jury that they had to
2 have a "short break"
3 and asked jury to leave
4 courtroom for a few
5 minutes. Jury left, at
6 which point the
7 BAILIFF ordered
8 HUPP to leave also. As
9 HUPP left, and was in
10 the small sealed entry
11 area between the
12 hallway and courtroom,
13 BAILIFF said HUPP
14 was being ORDERED
15 OUT of the courtroom
16 by GREENE because
17 "TALOA" did not want
18 HUPP there, and not to
19 return. HUPP informed
20 BAILIFF courtroom
21 was public place and
22 HUPP had a
23 constitutionally
24 protected right to attend
25 all public court trials.

1 BAILIFF said he didn't
 2 "care" and would
 3 "arrest" HUPP for
 4 "trespassing" if HUPP
 5 re-entered or returned.
 6 HUPP asked if he
 7 could speak with the
 8 GREENE regarding
 9 issue. BAILIFF said
 10 "NO", leave and do not
 11 return, or "go to jail".
 12 HUPP informed
 13 Presiding Criminal
 14 Judge Molloy in open
 15 session at 10:30 AM.
 16 Molloy took no action.
 17

18
 19 This is an ongoing, non-exhaustive list of the prosecutorial and judicial misconduct that
 20 DA and COURT have engaged in against PHUPP.

21 **III**
 22 **Conclusion**

23 For the reasons set forth *supra* PHUPP also requests that: 1) the entire DA Office be
 24 **disqualified for cause** based on their numerous, documented, unlawful and illegal criminal acts
 25

1 fully documented and set forth in this Motion; and 2) that the entire action be dismissed for
 2 lacking probable cause.

3 **Declaration**

4
 5 I, **Paul Hupp**, the above-entitled Defendant, declare the following;

- 6 1. If called upon to testify to this declaration in a court of competent jurisdiction I
 7 would and could competently testify to such;
- 8 2. Based on the documented actions in this Motion, which is supported by public
 9 records, the entire Riverside County DA Office is biased against me should be
 10 disqualified for cause.
- 11 3. The filing of RIF-1902599 justifies disqualification of DA from this, and all
 12 related, cases involving PHUPP.
- 13 4. The *alleged felony* charges in this action, RIF-1902599, are unequivocally, fully
 14 protected "Free Speech". Because the *allegations* are fully protected "Free
 15 Speech" the Riverside County DA Office never had, and still lacks, probable
 16 cause to bring the *alleged* charges.
- 17 5. I cannot receive a fair trial from the Riverside County DA, or *any* Riverside
 18 County DDA, including DDA TALOA, as evidenced by the conduct of TALOA
 19 and GREENE (and the legion of judges before her), a judge whom I have never
 20 met, did not know or have ever had any contact with whatsoever. GREENE
 21 engaged in an illegal and unlawful *ex parte* action with TALOA and the Riverside
 22 County DA Office to violate my constitutionally protected rights.
- 23 6. I notified the "Presiding Criminal Judge" of the Riverside County Superior Court,
 24 John Molloy, about the illegal, unlawful violation of my constitutionally protected
 25

rights by GREENE and DA on or around January 22, 2020. To date there has been no response whatsoever.

7. Attached is a true and correct copy of the January 22, 2020, letter I served on Judge Molloy.

8. In addition to the most recent conduct of GREENE, numerous other judges, cited *supra*, have engaged in a legion of unlawful and illegal actions; this includes, but is not limited to: 1) making perjured "Minute Orders" (FOULADI); 2) issuing a Bench Warrant when they had no legal authority to do so whatsoever (WHITE); 3) setting bond at five (5) times the schedule rate based on a "Declaration" that was blank and contained no support whatsoever (GUNN); 4) not hearing, or ruling on, PHUPP'S "Motions to Dismiss" and then marking them as "Disposed" (MOLLOY on 1-28-2020 in RIM-1913990).

9. In addition to the conduct of DA and the various Riverside County Superior Court judges, TALOA has engaged in numerous communications with BEAUMONT and BEAUMONT'S law firm, SOLERA, SOLERA'S law firm and multiple attorneys from the SOLERA law firm. DA, BEAUMONT, SOLERA and TALOA, as well as the Riverside County Probation Department ("PROBATION" (and who knows how many other outside/third parties)) have been engaged in an ongoing criminal conspiracy ("CRIMINAL CONSPIRACY") to violate my constitutionally protected rights.

10. CRIMINAL CONSPIRACY is supported by the legion of *ex parte* emails, letters, phone calls and other communications that have taken place between, but not limited to, the following: 1) SOLERA, SOLERA law firm and PROBATION; 2)

1 SOLERA, SOLERA law firm and DA; 3) SOLERA, SOLERA law firm and
2 TALOA; 4) Riverside County Superior Court and PROBATION; 5) Riverside
3 County Superior Court and SOLERA, SOLERA law firm; 6) BEAUMONT and
4 SOLERA, DA and TALOA.

5 11. Particularly egregious, and supporting the disqualification of DA, is that DA filed
6 RIM-1913990, which was *identical* to BAM-1903181. BAM-1903181 was a
7 bogus and false criminal *allegation* barred by the statute of limitations and Penal
8 Code §1050. RIM-1913990, although *identical* in virtually every detail, was filed
9 a mere seven (7) days after BAM-1903181 was *dismissed*. That is brazen, flagrant
10 and heinous misconduct of DA and TALOA. And another clear violation of Penal
11 Code §1050.
12

13 12. The filing of RIM-1913990 justifies disqualification of DA from this, and all
14 related, cases involving PHUPP.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct except for those portions based on information and belief and for
17 those portions I believe them to be true. If called to testify to these facts I would and could
18 competently testify to such in a court of competent jurisdiction.

19 Executed in Beaumont, CA, on February 11, 2020.

20 Respectfully submitted.

21
22 Dated this 11th day of February, 2020
23
24
25

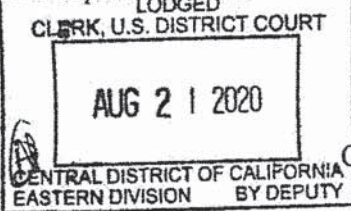
/s/ Paul Hupp

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA. 92223
(951) 769-1268
Paulhupp@Gmail.com
In Propria Persona

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Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA. 92223

In Propria Persona



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Paul Hupp,

Plaintiff,

v.

Case No.: 20-CV-

County of Riverside,
City of Beaumont,
Solera Oak Valley Greens Association,
Richardson Harman Ober, PC,
Richardson Ober, PC,
Thomas Harry Cahraman,
Rebecca Lynn Dugan,
John Washburne Vineyard,
Carol Anne Greene,
Debre Katz Weintraub,
Samiuela F. Taloa,
Wanda Joyce Bartholomew,
Richard Allen Beyl,
Kelly Gene Richardson,
Jonathan Robert Davis,
Theodore Hyun Dokko,
Todd Halbeisen,
Miguel Macias,
Lyndon Peats,
John Simpson,
Wayne Wolcott,
Virginia Anne Phillips,
Roes 1-10,
Individually, Individually, Jointly, Jointly and
Severally,
Defendants.

COMPLAINT AND DEMAND FOR JURY
TRIAL

COMPLAINT

Plaintiff Paul Hupp ("Plaintiff"), in *Propria Persona*, complains against Defendants County of Riverside ("COUNTY"), City of Beaumont ("CITY"), Solera Oak Valley Greens Association ("SOLERA"), Richardson Harman Ober, PC ("RHO"), Richardson Ober PC ("RO"), Thomas Harry Cahraman ("CAHRAMAN"), Rebecca Lynn Dugan ("DUGAN"), John Washburne Vineyard ("VINEYARD"), Carol Anne Greene ("GREENE"), Debre Katz Weintraub ("WEINTRAUB"), Samiuela F. Taloa ("TALOA"), Wanda Joyce Bartholomew ("BARTHOLOMEW"), Richard Allen Beyl ("BEYL"), Kelly Gene Richardson ("RICHARDSON"), Jonathan Robert Davis ("DAVIS"), Theodore Hyun Dokko ("DOKKO"), Todd Halbeisen ("HALBEISEN"), Miguel Macias ("MACIAS"), Lyndon Peats ("PEATS"), John Simpson ("SIMPSON"), Wayne Wolcott ("WOLCOTT") Virginia Anne Phillips ("PHILLIPS") and Roes 1-10 (collectively "DEFENDANTS"), individually, jointly, jointly and severally, as follows:

PARTIES, VENUE AND JURISDICTION

1. Paul Hupp ("Plaintiff") resides, and is domiciled within the state of California.
2. The actions that arise from this action all occurred within this judicial district.
3. COUNTY and CITY are state subdivisions and incorporated municipalities located within this judicial district.
4. SOLERA operates within this judicial district.
5. RHO, and its successor RO, are professional corporations conducting business within this judicial district. DAVIS, DOKKO and RICHARDSON are, or were, employed by RHO at all relevant times of the actions stated herein.
6. CAHRAMAN, DUGAN, VINEYARD, GREENE, WEINTRAUB and TALOA reside and are employed within this judicial district.

- 1 7. BARTHOLOMEW and BEYL reside within this judicial district.
- 2 8. MACIAS and PEATS were employed by CITY at all relevant times of the actions
- 3 stated herein.
- 4 9. HALBEISEN, SIMPSON and WOLCOTT, on information and belief, all are
- 5 employed by COUNTY.
- 6 10. PHILLIPS resides and is employed within his judicial district.
- 7 11. Roes 1-10 are unknown at this time but will be named and added to the complaint as
- 8 their identities become known.
- 9 12. DEFENDANTS' actions all occurred within Riverside County, located within the
- 10 Central District of California for jurisdictional purposes.
- 11 13. DEFENDANTS are sued individually, jointly and jointly and severally.
- 12 14. This action arises under the United States Constitution, particularly under the
- 13 provisions of the First, Fourth, Sixth, Eighth and Fourteenth Amendments to the
- 14 United States Constitution and under the laws of the United States, particularly the
- 15 Civil Rights Act, Title 42 of the United States Code, Sections 1983, 1985 and 1988.
- 16 15. This court has original jurisdiction of this action under the provisions of Title 28 of
- 17 the United States Code, Section 1343-Civil rights and elective franchise.
- 18 16. This court has original jurisdiction of this action under the provisions of Title 28 of
- 19 the United States Code, Section 1331-Federal question.
- 20 17. This court has original jurisdiction of this action under the provisions of Title 28 of
- 21 the United States Code, Sections 2201 and 2202-Declaratory and injunctive relief.
- 22 18. This court has supplemental jurisdiction of state claims that arise out of the common
- 23 nucleus of operative facts, case, or controversy common to the Plaintiff's federal
- 24 claims under the provisions of Title 28 of the United States Code, Section 1367(a)-
- 25 Supplemental jurisdiction.

1 19. This court has venue over this case under the provisions of Title 28 of the United
2 States Code, Section 1391(b) and (c).

3 **FACTUAL ALLEGATIONS**

4 20. That each and every act of DEFENDANTS, including but not limited to private actors
5 working in conjunction and jointly with the state actors, as set forth herein was
6 executed under the color of authority, statutes, ordinances, regulations, laws, customs,
7 training and usages of COUNTY and CITY, by virtue of and under authority of their
8 employment with COUNTY and CITY as government agents.

9 This reference incorporates the above paragraphs into the following counts.

10 **COUNT ONE (1): 42 USC SECTION 1983 LIABILITY FOR VIOLATIONS OF**
11 **CONSTITUTIONAL AND CIVIL RIGHTS-SEIZURE OF THE PERSON, LACK OF**
12 **PROBABLE CAUSE TO SUPPORT SEIZURE AND EXCESSIVE BOND**

13 21. On June 20, 2019, CAHRAMAN, TALOA and COUNTY filed a felony criminal
14 charge, RIF-1902599, against Plaintiff *alleging* a violation Penal Code ("PC") §76(a)
15 ("§76(a)") "Threatening Life of or Serious Bodily Harm to Public Official, Staff, or
16 Member of Immediate Family", based on written words in a pleading Plaintiff
17 submitted to disqualify CAHRAMAN in a Riverside County superior court civil case,
18 where CAHRAMAN and his staff were engaging in *ex parte* communications and
19 criminal acts with opposing counsel. Criminal acts that CAHRAMAN lied about,
20 covered up and stated never happened in open court. COUNTY sought, and was
21 granted, bond of \$150,000 without the probable cause affidavit as mandated under PC
22 §1269c. There was no explanation how COUNTY requested, or why Judge David
23 Allen Gunn approved, bond of \$150,000 without the probable cause affidavit as
24 mandated under PC §1269c. Plaintiff's written words were protected free speech
25 under the First Amendment. The §76(a) was dismissed on December 2, 2019, for
violating the "Litigation Privilege" under Cal. C. Civ. P. §47(b) ("§47(b)").

22. There was no "probable cause" to bring the felony charge because Plaintiff's words were constitutionally protected free speech; and were privileged under §47(b). There was no probable cause to seek any bond increase whatsoever without complying with PC §1269c, documenting supporting and articulable facts, as a prerequisite.

23. CAHRAMAN, TALOA and COUNTY violated Plaintiff's civil rights to be free of unlawful seizure under the Fourth Amendment and free of excessive bond under the Eighth Amendment.

24. CAHRAMAN, TALOA and COUNTY caused damages to Plaintiff, including the costs to post the bond of \$150,000.

This reference incorporates the above paragraphs into the following counts.

COUNT TWO (2): 42 USC SECTION 1985 LIABILITY FOR VIOLATION OF CONSTITUTIONAL AND CIVIL RIGHTS; CONSPIRACY TO VIOLATE CIVIL RIGHTS

25. CAHRAMAN, TALOA and COUNTY all conspired with each other in Count One (1) to violate Plaintiff's civil rights to be free from unlawful seizure, excessive bond and malicious prosecution.

Plaintiff suffered damages as a direct result of CAHRAMAN, TALOA and COUNTY conspiracy.

26. CAHRAMAN, TALOA and COUNTY are the proximate cause of said damages.

This reference incorporates the above paragraphs into the following counts.

COUNT THREE (3): 42 USC SECTION 1983 LIABILITY FOR VIOLATION OF CONSTITUTIONAL AND CIVIL RIGHTS-SEIZURE OF THE PERSON, LACK OF PROBABLE CAUSE TO SUPPORT SEIZURE, DENIAL OF DUE PROCESS RIGHTS AND VIOLATION OF THE FEDERAL RIGHT TO A SPEEDY TRIAL UNDER THE SIXTH AMENDMENT

27. On or around December 12, 2019, just seven (7) days after COUNTY, TALOA CAHRAMAN'S §76(a) was thrown out based on §47(b), CAHRAMAN, DUGAN, VINEYARD, TALOA and COUNTY filed by "Information" four (4) new felony

charges against Plaintiff in RIF-1902599, *alleging* a PC §69(a) (“§69(a)”) “Resisting an Executive Officer”, based on written words in pleadings Plaintiff submitted to DUGAN and VINEYARD asking them to make a ruling on papers Plaintiff had submitted to file a lawsuit; and papers Plaintiff filed to disqualify CAHRAMAN in a superior court civil case for unlawful *ex parte* communications with opposing counsel/parties. There was no explanation how COUNTY requested bond of \$150,000 without the probable cause affidavit as mandated under PC §1269c. Plaintiff’s written words were protected free speech under the First Amendment.

28. There was no “probable cause” to bring the four (4) new felony charges because Plaintiff’s words were constitutionally protected free speech under the First Amendment. There was no probable cause to seek any bond increase whatsoever without complying with PC §1269c.

29. COUNTY and TALOA filed a second criminal charge the same day, misdemeanor RIM-1913990. It was filed 360 days after the *allegations*, and just five (5) days prior to the Statute of Limitations (“SoL”) running. The charge was brought as retaliation based on Plaintiff’s free speech, in conjunction with the charges in RIF-1902599. RIM-1913990 violates Plaintiff’s First Amendment right to free speech because it was retaliation; and the Federal Right to a Speedy Trial under the Sixth Amendment.

30. CAHRAMAN, DUGAN, VINEYARD, TALOA and COUNTY violated Plaintiff’s civil rights to be free of unlawful seizure under the Fourth Amendment and excessive bond under the Eight Amendment.

31. CAHRAMAN, DUGAN, VINEYARD, TALOA and COUNTY caused damages to Plaintiff, including the costs to post the bond of \$150,000 for the felony and the \$2,500 for the misdemeanor.

This reference incorporates the above paragraphs into the following counts.

**COUNT FOUR (4): 42 USC SECTION 1985 LIABILITY FOR VIOLATION OF
CONSTITUTIONAL AND CIVIL RIGHTS; CONSPIRACY TO VIOLATE CIVIL
RIGHTS**

32. CAHRAMAN, DUGAN, VINEYARD, TALOA and COUNTY all conspired with each other to violate Plaintiff's civil rights to be free from unlawful seizure, excessive bond and malicious prosecution. Plaintiff suffered damages as a direct result of CAHRAMAN, DUGAN, VINEYARD, TALOA and COUNTY conspiracy.

33. CAHRAMAN, DUGAN, VINEYARD, TALOA and COUNTY are the proximate cause of the damages.

This reference incorporates the above paragraphs into the following counts.

**COUNT FIVE (5): 42 USC SECTION 1983 LIABILITY FOR VIOLATION OF
CONSTITUTIONAL AND CIVIL RIGHTS-DENIAL OF ACCESSING A PUBLIC
COURTROOM UNDER THE FIRST AMENDMENT**

34. On January 21, 2020, at or around 10:00-10:15 AM, Plaintiff was waiting in the hallway of Dept. 64, and decided to go in and watch an ongoing trial in Dept. 62: People v. Ancel Yamil Romanrodriguez, case no.: RIF-1800345. Plaintiff walked into Dept. 62, and took a seat in the back row.

35. TALOA was in the courtroom and saw Plaintiff. TALOA asked for a "side bar" with the judge, who was GREENE. TALOA and GREENE then went into chambers and returned a few minutes later, and GREENE told the seated jury that the court was taking a break.

36. As the jurors left Plaintiff was told to leave also. When Plaintiff was in the hallway the deputy sheriff/bailiff told Plaintiff he could not return back to the public courtroom because TALOA did not want Plaintiff there. And if Plaintiff returned he would be "arrested for trespassing". Plaintiff asked if her could speak with the Judge GREENE and was told no.

1 37. COUNTY, TALOA and GREENE violated Plaintiff's civil rights to be free of
 2 unlawful seizure in a public courtroom under the Fourth Amendment; including
 3 threats of seizure in a public place and especially a public courtroom.

4 38. COUNTY, TALOA and GREENE caused damages to Plaintiff.

5 This reference incorporates the above paragraphs into the following counts.

6 **COUNT SIX (6): 42 USC SECTION 1985 LIABILITY FOR VIOLATION OF**
 7 **CONSTITUTIONAL AND CIVIL RIGHTS; CONSPIRACY TO VIOLATE CIVIL**
 8 **RIGHTS**

9 39. COUNTY, TALOA and GREENE all conspired with each other to violate Plaintiff's
 10 civil rights of/to access a public courtroom.

11 Plaintiff suffered damages as a direct result of COUNTY, TALOA and GREENE
 12 conspiracy.

13 40. COUNTY, TALOA and GREENE are the proximate cause of the damages.

14 This reference incorporates the above paragraphs into the following counts.

15 **COUNT SEVEN (7): 42 USC SECTION 1983 LIABILITY FOR VIOLATION OF**
 16 **CONSTITUTIONAL AND CIVIL RIGHTS- SEIZURE OF THE PERSON**

17 41. On Friday, October 26, 2018, at or around 1:30 - 2:00 PM, Plaintiff entered the
 18 Riverside Superior Court Historic Courthouse, 4050 Main Street, Riverside, CA.
 19 Plaintiff walked through the metal detector wearing only a t-shirt, shorts, socks and
 20 shoes. Plaintiff was only carrying papers. The metal detector did not sound or alert in
 21 any manner whatsoever. The contracted security guard at the entrance ("ROE #1")
 22 told Plaintiff to stop. Plaintiff stopped and asked what was needed. ROE #1 told
 23 Plaintiff to come back towards him. Plaintiff asked why, ROE #1 refused to answer.
 24 Plaintiff asked ROE #1 a second time what he wanted, ROE #1 refused to answer.
 25 ROE #1 had no legal authority to detain or seize Plaintiff, so Plaintiff walked into the
 clerk's office. After approximately five (5) minutes Plaintiff was leaving the clerk's
 office and several uniformed deputy sheriffs approached Plaintiff and then unlawfully

1 seized Plaintiff for approximately 20 minutes against Plaintiff's will. The uniformed
 2 deputy sheriffs stated ROE #1 had *alleged* Plaintiff breached the security area. This
 3 was in fact false. Plaintiff did not breach the security area, and ROE #1 never stated
 4 to Plaintiff he had. There are several security cameras located though out the
 5 courthouse, including several that filmed the entrance Plaintiff came in, which would
 6 have proven there was no breach by Plaintiff. Instead of reviewing the security
 7 camera images the uniformed deputy sheriffs detained Plaintiff against his will.

8 42. ROE #1 and COUNTY violated Plaintiff's civil rights to be free of unlawful seizure
 9 under the Fourth Amendment.

10 43. ROE #1 and COUNTY caused damages to Plaintiff and are the proximate cause of
 11 said damages.

12 This reference incorporates the above paragraphs into the following counts.

13 **COUNT EIGHT (8): 42 USC SECTION 1983 LIABILITY FOR VIOLATION OF**
 14 **CONSTITUTIONAL AND CIVIL RIGHTS-SEIZURE OF THE PERSON, LACK OF**
 15 **PROBABLE CAUSE TO SUPPORT SEIZURE AND DENIAL OF DUE PROCESS**
 16 **RIGHTS**

17 44. On or around June 14, 2017, BEYL claimed Plaintiff "vandalized" two (2) sprinkler
 18 flags. Sprinkler flags with an aggregate value of less than 20 cents (8.9 cents each).
 19 CITY investigated and sought a misdemeanor charge of "Vandalism" under Penal
 20 Code §594(a). COUNTY, SIMPSON, WOLCOTT and TALOA sought "Bail" of
 21 \$250K on the *alleged* misdemeanor charge involving less two (2) sprinkler flags that
 22 had less than 20 cents of aggregate value. COUNTY, SIMPSON, WOLCOTT and
 23 TALOA never complied with any documentary, or other evidence, mandated under
 24 PC §1269c that would support such a staggering amount of bond over the posted
 25 schedule of \$2,500. Bail was granted in the staggering amount of \$57K. The *alleged*
 misdemeanor charge, Penal Code §594(a) (Case no.: BAM-1702398), was dropped

1 the day of trial, January 24, 2019. This was the second time COUNTY dropped a
 2 criminal charge by BEYL and CITY the day of trial.

3 45. There was no probable cause to bring the charge.

4 46. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BEYL had no warrant, nor
 5 sought a warrant based on probable cause.

6 47. Plaintiff was physically arrested and had to post bond in the amount of \$57K.

7 48. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BEYL are liable to Plaintiff
 8 for unlawful seizure under the Fourth Amendment.

9 49. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BEYL are liable to Plaintiff
 10 for violating due process for malicious prosecution under the Fourteenth Amendment.

11 This reference incorporates the above paragraphs into the following counts.

12 **COUNT NINE (9): 42 USC SECTION 1985 LIABILITY FOR VIOLATION OF**
 13 **CONSTITUTIONAL AND CIVIL RIGHTS; CONSPIRACY TO VIOLATE CIVIL**
 14 **RIGHTS**

15 50. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BEYL all conspired
 16 with each other to violate Plaintiff's civil rights to be free from unlawful seizure and
 17 malicious prosecution.

18 51. Plaintiff suffered damages as a direct result of COUNTY, CITY, SIMPSON,
 19 WOLCOTT, TALOA and BEYL conspiracy.

20 52. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BEYL are the proximate
 21 cause of the damages.

22 This reference incorporates the above paragraphs into the following counts.

23 **COUNT TEN (10): 42 USC SECTION 1983 LIABILITY FOR VIOLATION OF**
 24 **CONSTITUTIONAL AND CIVIL RIGHTS-SEIZURE OF THE PERSON, LACK OF**
 25 **PROBABLE CAUSE TO SUPPORT SEIZURE AND DENIAL OF DUE PROCESS**
RIGHTS

53. On or around June 15, 2017, BARTHOLOMEW *alleged* Plaintiff violated a court order. CITY investigated and sought a misdemeanor charge of "Violating a Court Order" under Penal Code §166(a)(4).

54. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BARTHOLOMEW sought "Bail" of \$250K on the *alleged* misdemeanor charge. Bail was granted in the staggering amount of \$53K. The *alleged* misdemeanor charge, Penal Code §166(a)(4) (Case no.: BAM-1702398), was dropped the day of trial, March 27, 2019. This was the third time COUNTY dropped their charge the day of trial.

55. There was no probable cause to bring the charge.

56. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BARTHOLOMEW had no warrant, nor sought a warrant based on probable cause.

57. Plaintiff was physically arrested and had to post bond in the amount of \$53K.

58. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BARTHOLOMEW are liable to Plaintiff for unlawful seizure under the Fourth Amendment.

59. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BARTHOLOMEW are liable to Plaintiff for violating due process for malicious prosecution under the Fourteenth Amendment.

This reference incorporates the above paragraphs into the following counts.

COUNT ELEVEN (11): 42 USC SECTION 1985 LIABILITY FOR VIOLATION OF CONSTITUTIONAL AND CIVIL RIGHTS; CONSPIRACY TO VIOLATE CIVIL RIGHTS

60. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BARTHOLOMEW all conspired with each other to violate Plaintiff's civil rights to be free from unlawful seizure and malicious prosecution.

61. Plaintiff suffered damages as a direct result of COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BARTHOLOMEW conspiracy.

62. COUNTY, CITY, SIMPSON, WOLCOTT, TALOA and BARTHOLOMEW are the proximate cause of the damages.

This reference incorporates the above paragraphs into the following counts.

COUNT TWELVE (12): 42 USC SECTION 1983 LIABILITY FOR VIOLATION OF CONSTITUTIONAL AND CIVIL RIGHTS-SEIZURE OF THE PERSON, LACK OF PROBABLE CAUSE TO SUPPORT SEIZURE AND DENIAL OF DUE PROCESS RIGHTS

63. On or around July 17, 2017, CITY, MACIAS and PEATS arrested Plaintiff for an *alleged* violation by BEYL of *felony* assault with a deadly weapon, Penal Code §245. Plaintiff had to post a \$25K bond to be released from custody. Plaintiff was never charged with felony assault with a deadly weapon because there was no probable cause supporting it. This was the fourth time CITY arrested Plaintiff and either never filed charges or dropped their charge the day of trial.

64. There was no probable cause to arrest Plaintiff on a felony charge and no felony charge was ever filed.

65. CITY, MACIAS and PEATS had no warrant nor sought a warrant based on probable cause.

66. Plaintiff was physically arrested and had to post bond in the amount of \$25K.

67. CITY, MACIAS, PEATS and BEYL are liable to Plaintiff for unlawful seizure under the Fourth Amendment.

68. CITY, MACIAS, PEATS and BEYL are liable to Plaintiff for forcing Plaintiff to post excessive bond without probable cause in violation of the Eighth Amendment.

69. CITY, MACIAS, PEATS and BEYL are liable to Plaintiff for violating due process under the Fourteenth Amendment.

1 This reference incorporates the above paragraphs into the following counts.

2 **COUNT THIRTEEN (13): 42 USC SECTION 1985 LIABILITY FOR VIOLATION OF**
 3 **CONSTITUTIONAL AND CIVIL RIGHTS; CONSPIRACY TO VIOLATE CIVIL**
 4 **RIGHTS**

5 70. CITY, MACIAS, PEATS and BEYL all conspired with each other to violate
 6 Plaintiff's civil rights to be free from unlawful seizure and malicious prosecution.
 7 Plaintiff suffered damages as a direct result of CITY, MACIAS, PEATS and BEYL
 8 conspiracy.

9 71. CITY, MACIAS, PEATS and BEYL are the proximate cause of the damages.

10 This reference incorporates the above paragraphs into the following counts.

11 **COUNT FOURTEEN (14): 42 USC SECTION 1983 LIABILITY FOR VIOLATION OF**
 12 **CONSTITUTIONAL AND CIVIL RIGHTS-DENIAL OF DUE PROCESS UNDER THE**
 13 **FOURTEENTH AMENDMENT**

14 72. Plaintiff and BARTHOLOMEW are involved in a civil case that was/is being
 15 litigated in Riverside County Superior Court-Open Civil, case# MCP-1601191,
 16 CAHRAMAN was the judge. COUNTY Deputy Sheriff HALBEISEN was
 17 CAHRAMAN'S court bailiff. DOKKO, DAVIS and RICHARDSON of the law firm
 18 RO/RHO represented BARTHOLOMEW. DOKKO, DAVIS and RICHARDSON of
 19 the law firm RO/RHO are also the attorneys and law firm of record for SOLERA.
 20 SOLERA, BARTHOLOMEW, CAHRAMAN, HALBEISEN, DOKKO, DAVIS,
 21 RICHARDSON and RO/RHO are all "alter egos" of each other under this count.

22 73. DOKKO, DAVIS and RICHARDSON of RO/RHO met numerous times with
 23 CAHRAMAN and HALBEISEN in CAHRAMAN'S chambers and locked down
 24 courtroom when it was not open to the public. In 2017 Plaintiff filed court papers
 25 documenting this misconduct. CAHRAMAN, HALBEISEN, DOKKO, DAVIS,
 RICHARDSON and RO/RHO all admitted on the record that DOKKO, DAVIS,

1 RICHARDSON and RO/RHO were in the locked down courtroom, but all denied that
 2 they discussed the case or were engaging in any misconduct concerning the case. In
 3 2018 Plaintiff received documents from COUNTY that showed CAHRAMAN,
 4 HALBEISEN, DOKKO, DAVIS, RICHARDSON and RO/RHO were in fact
 5 discussing the case, in chambers and the locked down courtroom, and that their
 6 earlier denials of such misconduct were perjured lies, violating Plaintiff's right to Due
 7 Process of law under the Fourteenth Amendment.

8
 9 74. SOLERA, BARTHOLOMEW, CAHRAMAN, HALBEISEN, DOKKO, DAVIS,
 10 RICHARDSON and RO/RHO are liable to Plaintiff for their *ex parte*
 11 communications and unlawful misconduct with each other to the detriment of
 12 Plaintiff; and then concealing their deceit, temporarily, by making perjured statements
 13 on the record that they had not engaged in any misconduct. This prevented SOLERA,
 14 BARTHOLOMEW, CAHRAMAN, HALBEISEN, DOKKO, DAVIS,
 15 RICHARDSON and RO/RHO unlawful acts from being discovered in a timely
 16 fashion, and almost never discovered, in violation of the Due Process Clause of the
 17 Fourteenth Amendment.

18 This reference incorporates the above paragraphs into the following counts.

19
 20 **COUNT FIFTEEN (15): 42 USC SECTION 1985 LIABILITY FOR VIOLATION OF**
 21 **CONSTITUTIONAL AND CIVIL RIGHTS; CONSPIRACY TO VIOLATE CIVIL**
 22 **RIGHTS**

23 75. SOLERA, BARTHOLOMEW, CAHRAMAN, HALBEISEN, DOKKO, DAVIS,
 24 RICHARDSON and RO/RHO all conspired with each other to violate Plaintiff's civil
 25 rights to Due Process of Law secured by the Fourteenth Amendment.

1 76. Plaintiff suffered damages as a direct result of SOLERA, BARTHOLOMEW,
2 CAHRAMAN, HALBEISEN, DOKKO, DAVIS, RICHARDSON and RO/RHO
3 conspiracy.

4 77. SOLERA, BARTHOLOMEW, CAHRAMAN, HALBEISEN, DOKKO, DAVIS,
5 RICHARDSON and RO/RHO are the proximate cause of the damages.

6 This reference incorporates the above paragraphs into the following counts.

7 **COUNT SIXTEEN (16): 42 USC SECTION 1983 LIABILITY FOR VIOLATION OF**
8 **CONSTITUTIONAL AND CIVIL RIGHTS-DENIAL OF ACCESS TO THE COURTS**
9 **AND DUE PROCESS UNDER THE FIRST AND FOURTEENTH AMENDMENTS**

10 78. Plaintiff was a defendant in a case held before "The Office of Administrative
11 Hearings" ("OAH") in 2017. OAH is a quasi-judicial tribunal that hears
12 administrative disputes between State and local licensing agencies that was
13 established by the California Legislature. OAH provides Administrative Law Judges
14 ("ALJ") to conduct hearings for State and local government agencies. Plaintiff has
15 had numerous such hearings before the OAH and their ALJ, and Plaintiff has always
16 found the OAH ALJ to be bias in favor of the State. Plaintiff has had multiple ALJ
17 rulings reversed on appeal to the Superior Court.

18 79. Plaintiff had an adverse ALJ ruling in Los Angeles in 2017 and appealed it through
19 the normal process, by a "Writ of Mandamus" ("APPEAL"). WEINTRAUB was the
20 Presiding Judge for the Los Angeles County Superior Court and refused to calendar
21 the APPEAL, violating Plaintiff's right of access to the courts under the First
22 Amendment and to due process of law secured by the Fourteenth Amendment.

23 80. Plaintiff suffered damages and WEINTRAUB is the proximate cause and liable for
24 said damages.
25

1 81. WEINTRAUB is liable to Plaintiff for violating his constitutionally protected right of
 2 access to the courts under the First Amendment; and due process of law secured by
 3 the Fourteenth Amendment.

4 This reference incorporates the above paragraphs into the following counts.

5 **COUNT SEVENTEEN (17): 42 USC SECTION 1983 LIABILITY FOR VIOLATION OF**
 6 **CONSTITUTIONAL AND CIVIL RIGHTS-DENIAL OF ACCESS TO THE COURTS**
 7 **AND DUE PROCESS UNDER THE FIRST AND FOURTEENTH AMENDMENTS**

8 82. Plaintiff has attempted to file 13 lawsuits in the Riverside Superior Court pursuant to
 9 Cal. C. of Civ. Pro. §391.7(c), since 2017. DUGAN and VINEYARD were/are the
 10 “Presiding Judges” during this time period and were/are responsible for either
 11 granting or denying the filing. DUGAN and VINEYARD have not granted, denied or
 12 processed any of the 13 actions going back to 2017. On July 10, 2020, Plaintiff
 13 submitted papers to file a lawsuit and included an “Emergency *Ex Parte* Application”
 14 for an *emergency* hearing over issues that were causing irreparable harm to Plaintiff
 15 and needed immediate action. Plaintiff wanted that hearing to have been held within
 16 2-5 days of submitting the papers on July 10, 2020. Despite the *emergency* filing on
 17 July 10, 2020, as with the previous 13 actions going back to 2017 there was no
 18 response by DUGAN or VINEYARD. It has been 31 days with no response from
 19 DUGAN or VINEYARD. The identical and the very same response from DUGAN
 20 and VINEYARD as the previous 13 actions filed by Plaintiff in the last three and a
 21 half (3.5) years; which is no response. Five (5) days later, on July 14, 2020, Plaintiff
 22 filed an *emergency* petition for a Writ of Mandamus (“WRIT”) in the District Court
 23 of Appeal (“DCA”). Once again, despite the need for an *emergency* hearing, there
 24 was no *emergency* reply. The DCA did not take any action until a week later, when
 25

1 on July 21, 2020, the DCA asked Plaintiff to file yet more paperwork, which Plaintiff
2 complied with and filed that same day because of the *emergency* nature of the action.
3 After waiting yet *another week* with no reply Plaintiff filed a third paper with DCA
4 on July 27, 2020, noting the *emergency* nature and asked for an immediate ruling.
5 The DCA filed a ruling July 28, 2020, DENYING the WRIT, but not on the merits,
6 the DCA *alleged* they could not grant WRIT because they alleged needed yet more
7 information from Plaintiff, information that was not asked for in their July 21, 2020,
8 Order. But instead of allowing Plaintiff to try to cure any perceived deficiencies,
9 deficiencies that DCA failed to seek in their original order, DCA closed the case
10 without giving Plaintiff a chance to comply. Plaintiff established through the
11 information DCA put in their July 21, 2020, Order that DCA and
12 DUGAN/VINEYARD/Trial Court were having *ex parte* communications because
13 DCA made statements that were not in the record filed at DCA. The only way the
14 DCA could have learned of such information was by having *ex parte* communications
15 with DUGAN/VINEYARD/Trial Court. Plaintiff asked DCA to re-open the case, and
16 to disqualify itself *for cause* based on their *ex parte* communications with
17 DUGAN/VINEYARD/Trial Court. DCA refused to reopen the case.
18

19 83. Plaintiff then re-drafted that lawsuit to file with this Court, with additional actions
20 against DUGAN and VINEYARD for violating Plaintiff's constitutionally protected
21 right of access to the courts under the First Amendment. That action was then filed
22 with this court on Monday, August 17, 2020, with an *emergency ex parte* application,
23 just as Plaintiff sought, on an *emergency* basis, more than a month prior in the state
24 court.
25

1 84. Plaintiff suffered damages as a result of DUGAN and VINEYARD failing to rule on,
 2 or process in any manner whatsoever, the 13 lawsuits Plaintiff has attempted to file
 3 going back 3.5 years, to 2017, plus the action filed on July 21, 2020.

4 85. DUGAN and VINEYARD are the proximate cause of, and liable, for said damages.

5 86. DUGAN and VINEYARD are liable to Plaintiff for violating his constitutionally
 6 protected right of access to the courts under the First Amendment; and violating due
 7 process of law secured by the Fourteenth Amendment.

8 This reference incorporates the above paragraphs into the following counts.
 9

10 **COUNT EIGHTEEN (19): 42 USC SECTION 1983 LIABILITY FOR VIOLATION OF**
 11 **CONSTITUTIONAL AND CIVIL RIGHTS-SEIZURE OF THE PERSON, LACK OF**
 12 **PROBABLE IN VIOLATION OF THE FOURTH AMENDMENT**

13 87. On or around May 7, 2019, COUNTY unlawfully seized and detained Plaintiff
 14 without probable cause.

15 88. Plaintiff suffered damages from COUNTY unlawful action, and COUNTY was the
 16 proximate cause of the action.

17 89. COUNTY is liable to Plaintiff for an unlawful seizure of the person in violation of the
 18 Fourth Amendment.

19 **COUNT NINETEEN (19): DECLARATORY RELIEF**

20 90. DECLARE Cal. C. of Civ. Pro. §391.7(c) is unconstitutional "as applied" by the
 21 actions/inactions of COUNTY, DUGAN and VINEYARD.

22 91. DECLARE Cal. C. of Civ. Pro. §391.7(c) is unconstitutional vague, ambiguous and
 23 overly broad.
 24
 25

1 92. DECLARE that Plaintiff's speech that is the subject of the four (4) count
 2 felony information in pending case RIF-1902599 is constitutionally protected free
 3 speech secured by the First Amendment.

4 93. DECLARE that COUNTY'S pending misdemeanor case RIM-1913990
 5 was brought in retaliation for Plaintiff's free speech rights and is a direct violation of:
 6 1) the First Amendment; and 2) the Federal Right to a Speedy Trial secured by the
 7 Sixth Amendment.

8 94. DECLARE PHILLIPS ruling in Case No.: EDCV-16-00370 VAP (SP)
 9 declaring Plaintiff a "vexatious litigant", a violation of the FRCP based on issue
 10 preclusion and collateral estoppel. PHILLIPS list of cases were the exact same cases
 11 used in the "vexatious litigant" motion that was filed April 27, 2012¹, against Plaintiff
 12 by Cheryl Brierton, a supervising Deputy Attorney General ("DAG") for the State of
 13 California, before Presiding United States District Court Judge for the Southern
 14 District of California, Judge Irma E. Gonzalez. Judge Gonzalez refused to make the
 15 "finding" requested that Plaintiff was a "vexatious litigant". In fact Judge Gonzalez
 16 would not even make the finding that the statements in the referenced cases are
 17 factually true. PHILLIPS just re-litigated the exact same issue that had been ruled on,
 18 and denied, prior by Judge Irma Gonzales April 27, 2012, ORDER.

19 This reference incorporates the above paragraphs into the following counts.
 20

21 **COUNT TWENTY (20): INJUNCTIVE RELIEF**

22 95. ENJOIN COUNTY, including TALOA, from prosecuting pending cases RIF-
 23 1902599 and RIM-1913990.
 24

25 ¹ See Hupp v San Diego County et al, 12-cv-492, Docket #24.

1 96. ENJOIN COUNTY, including TALOA, from filing any new criminal *allegation/s*
2 against Plaintiff and mandating that any criminal *allegation/s* be forwarded to the
3 Office of Attorney General of California for review of charges and any criminal
4 filing. Support for such an injunction is warranted based on the prior seven (7)
5 criminal cases with 13 different violations, and virtually every single case and all
6 counts: 1) dropped the day of trial; 2) dismissed at preliminary hearing based on the
7 "Litigation Privilege"; 3) dismissed at opening argument, but after a jury had been
8 picked and sworn in, because the statute of limitations had run; 4) dismissal that is
9 warranted based on the pending motions to dismiss under: a) free speech; b) federal
10 speedy trial and c) the "Litigation Privilege".
11

12 97. Further buttressing such an injunction is that on or around May 29, 2020, TALOA
13 stated to Plaintiff's attorney that TALOA and COUNTY were considering filing new
14 charges against Plaintiff based on speech TALOA attributed to Plaintiff, speech
15 which was, and is, constitutionally protected under the First Amendment. Given the
16 history of COUNTY, CAHRAMAN, DUGAN, VINEYARD, GREENE, TALOA and
17 several other COUNTY judges of: 1) filing of multiple cases and charges that are
18 either dismissed by COUNTY the day of trial, dismissed at preliminary hearing or
19 dismissed at opening statements due to the statute of limitations having run; 2)
20 seeking excessive bond; 3) and such excessive bond then rubber stamped/granted by
21 COUNTY despite failing to comply with statutory law under PC §1269c, as required
22 in COUNTY seeking any bond increase whatsoever above the posted schedule. Given
23 this legion of past actions/misconduct engaged in by COUNTY, TALOA and
24 COUNTY judges it is appropriate that COUNTY and TALOA be ENJOINED from
25

1 being allowed to file any further criminal actions against Plaintiff, and instead
 2 forward any allegations to the AG Office for review and possible filing.

3 98. ENJOIN COUNTY, GREENE and TALOA from blocking access to public courts in
 4 violation of the First Amendment.

5 99. ENJOIN COUNTY, CAHRAMAN, DUGAN, VINEYARD and GREENE from
 6 hearing any civil or criminal case/motions/papers involving Plaintiff whatsoever and
 7 transfer any cases current and future cases to San Bernardino County. Two (2)
 8 criminal cases have already been transferred to San Bernardino County, RIF-02599
 9 and RIM-1903181 as a result of COUNTY, CAHRAMAN, DUGAN and
 10 VINEYARD misconduct.
 11

12 100. ENJOIN COUNTY from seeking excessive bond in violation of the Eighth
 13 Amendment.

14 101. MANDATE that COUNTY review and process any civil papers that Plaintiff
 15 submits for processing within 21 days.

16 102. MANDATE PHILLIPS remove Plaintiff from the "vexatious litigant" list
 17 forthwith.

18 This reference incorporates the above paragraphs into the following counts.

19 **COUNT TWENTYONE (21): INTENTIONAL INFLICTION OF EMOTIONAL**
 20 **DISTRESS (STATE CLAIM)**

21 103. The DEFENDANTS in this action engaged in numerous civil wrongs as outlined
 22 in this COMPLAINT, including engaging in intentional and reckless conduct. These
 23 acts by DEFENDANTS were beyond the bounds of human decency. DEFENDANTS
 24 did these acts knowingly, willfully, intentionally and maliciously, with the intent to
 25 cause Plaintiff severe emotional distress and mental anguish.

104. DEFENDANTS conduct was both extreme and outrageous. As a direct and proximate cause of this extreme and outrageous conduct by DEFENDANTS, stated *supra*, Plaintiff suffered extreme emotional and psychological distress. DEFENDANTS' actions also caused embarrassment, humiliation, shame, fright, fear, and grief in Plaintiff, and DEFENDANTS actions were more than a reasonable person could endure.

105. Plaintiff has suffered severe and extreme emotional and psychological distress.

106. Said illegal actions by DEFENDANTS were unreasonable, performed knowingly, willfully, intentionally, deliberately, with deliberate indifference, maliciously, with gross negligence, callousness, indecency and with reckless disregard and indifference to the laws of the state of California.

107. Defendants are liable for their malicious actions damaging Plaintiff.

PRAYER FOR RELIEF

ON THESE ABOVE LISTED GROUNDS, Plaintiff Paul Hupp prays that this Honorable United States District Court grant judgment in his favor and against DEFENDANTS as follows;

1. For compensatory, special and general damages according to proof, but exceeding \$1,000,000;
2. For punitive and exemplary damages according to proof;
3. For prejudgment and post judgment interest;
4. For declaratory and injunctive *supra*, including preventing DEFENDANTS from engaging in the conduct that gives rise to this action, including: 1) DECLARING Plaintiff's free speech is constitutionally protected; 2) enjoining and dismissing the pending felony case of COUNTY as violating

- 1 Plaintiff's free speech under the First Amendment; 3) enjoining and
 2 dismissing the pending misdemeanor case of COUNTY against Plaintiff as
 3 violating the federal right to speedy trial and as retaliation against Plaintiff for
 4 exercising his constitutionally protected right of free speech under the First
 5 Amendment; 3) enjoining COUNTY from filing any new criminal
 6 *allegation/s* against Plaintiff and mandating that any criminal *allegation/s* be
 7 forwarded to the Office of Attorney General of California for review of
 8 charges and filing in San Bernardino County if warranted; 2) enjoining
 9 COUNTY, GREENE and TALOA from blocking access to public courts in
 10 violation of the First Amendment; 3) enjoining COUNTY, CAHRAMAN,
 11 DUGAN, VINEYARD and GREENE from hearing any civil or criminal
 12 case/motions/papers involving Plaintiff whatsoever; 4) enjoining COUNTY
 13 from seeking excessive bond in violation of the Eighth Amendment.
 14
 15 5. All fees, costs and expenses for the bringing of this claim, including but not
 16 limited to, all attorney fees and costs provided for under 42 U.S.C. Section
 17 1988.
 18
 19 6. All other appropriate legal and equitable relief.

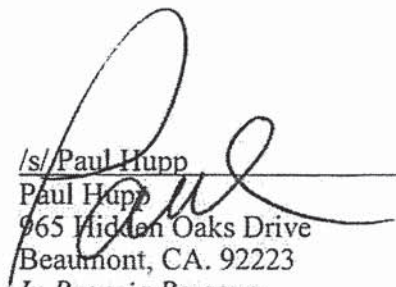
RIGHT TO AMEND

20 Plaintiff hereby expressly reserves the right to amend this action to include any actions
 21 arising from discovery and to add in Roe defendants.
 22

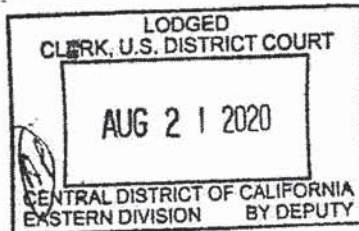
JURY DEMAND

23 Plaintiff requests trial by jury on all genuine and disputed issues of material fact in this
 24 case.
 25

Dated this 10th day of August, 2020


/s/ Paul Hupp
Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA. 92223
In Propria Persona

NAME, ADDRESS, AND TELEPHONE NUMBER OF ATTORNEY(S)
OR OF PARTY APPEARING IN PRO PER
PPaul Hupp
965 Hidden Oaks Drive
Beaumont, CA 92223



ATTORNEY(S) FOR: Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Paul Hupp

CASE NUMBER:

20-CV-

Plaintiff(s),

v.

County of Riverside et al
(See Attached Facepage)

Defendant(s)

CERTIFICATION AND NOTICE
OF INTERESTED PARTIES
(Local Rule 7.1-1)

TO: THE COURT AND ALL PARTIES OF RECORD:

The undersigned, counsel of record for Paul Hupp
or party appearing in pro per, certifies that the following listed party (or parties) may have a pecuniary interest in
the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification
or recusal.

(List the names of all such parties and identify their connection and interest. Use additional sheet if necessary.)

	PARTY	CONNECTION / INTEREST
Paul Hupp		Plaintiff

8-10-2020
Date


Signature

Attorney of record for (or name of party appearing in pro per):

1 Paul Hupp
965 Hidden Oaks Drive
2 Beaumont, CA. 92223
3 *In Propria Persona*

4 UNITED STATES DISTRICT COURT
5 CENTRAL DISTRICT OF CALIFORNIA

6 Paul Hupp,

7 Plaintiff,

8 v.

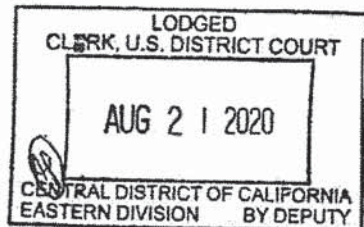
) Case No.: 20-CV-

9 County of Riverside,
10 City of Beaumont,
Solera Oak Valley Greens Association,
11 Richardson Harman Ober, PC,
Richardson Ober, PC,
12 Thomas Harry Cahraman,
Rebecca Lynn Dugan,
13 John Washburne Vineyard,
Carol Anne Greene,
14 Debre Katz Weintraub,
Samiuela F. Taloa,
15 Wanda Joyce Bartholomew,
Richard Allen Beyl,
16 Kelly Gene Richardson,
Jonathan Robert Davis,
17 Theodore Hyun Dokko,
Todd Halbeisen,
18 Miguel Macias,
Lyndon Peats,
19 John Simpson,
Wayne Wolcott,
20 Virginia Anne Phillips,
21 Roes 1-10,
Individually, Individually, Jointly, Jointly and
22 Severally,

23 Defendants.

) COMPLAINT AND DEMAND FOR JURY
TRIAL

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA 92223



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Paul Hupp

CASE NUMBER

20-CV-

PLAINTIFF/PETITIONER,

v.

County of Riverside et al
(See Attached Facepage)

DEFENDANT(S).

**REQUEST TO PROCEED
IN FORMA PAUPERIS WITH
DECLARATION IN SUPPORT**

I, Paul Hupp, declare under penalty of perjury, that the foregoing is true and correct; that I am the petitioner/plaintiff in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefore, I state that because of my poverty I am unable to pay the costs of said proceedings or to give security therefore and that I am entitled to redress.

I further declare under penalty of perjury that the responses which I have made to the questions and instructions below are true, correct and complete.

1. Are you presently employed? ☐ Yes ☒ No

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer. _____

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. August 8-2010, washed neighbors car, \$25

2. Have you received, *within the past twelve months*, any money from any of the following sources?

- | | |
|---|---|
| a. Business, profession or form of self-employment? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| b. Rent payments, interest or dividends? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance payments? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| d. Gifts or inheritances? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| e. Any other income (other than listed above)? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| f. Loans? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

If the answer to any of the above is yes, describe such source of money and state the amount received from each source during the past twelve (12) months: Borrowed \$1200 from neighbor to pay utility bills

REQUEST TO PROCEED IN FORMA PAUPERIS WITH DECLARATION IN SUPPORT

3. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts, if applicable.) ☐ Yes ☒ No

If the answer is yes, identify each account and separately state the amount of money held in **each** account for each of the *six (6) months prior* to the date of this declaration.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? ☒ Yes ☐ No

If the answer is yes, describe the property and state its approximate value: _____

Own 1986 Nissan Truck- \$500

5. In what year did you last file an Income Tax return? 2010

Approximately how much income did your last tax return reflect? \$5,000

6. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support:

Just myself and my rescue animals

I understand that a false statement or answer to any question in this declaration will subject me to penalties for perjury. I further understand that perjury is punishable by a term of imprisonment of up to five (5) years and/or a fine of \$250,000 (18 U.S.C. Sections 1621, 3571).

CA

State

Riverside

County (or City)

I, Paul Hupp, declare under penalty of perjury that the foregoing is true and correct.

8-8-2020

Date


Plaintiff/Petitioner (Signature)

1 Paul Hupp
965 Hidden Oaks Drive
2 Beaumont, CA. 92223
3 *In Propria Persona*

4 UNITED STATES DISTRICT COURT
5 CENTRAL DISTRICT OF CALIFORNIA

6 **Paul Hupp,**

7 Plaintiff,

8 v.

Case No.: 20-CV-

9 **County of Riverside,**
10 **City of Beaumont,**
11 **Solera Oak Valley Greens Association,**
12 **Richardson Harman Ober, PC,**
13 **Richardson Ober, PC,**
14 **Thomas Harry Cahraman,**
15 **Rebecca Lynn Dugan,**
16 **John Washburne Vineyard,**
17 **Carol Anne Greene,**
18 **Debre Katz Weintraub,**
19 **Samiuela F. Taloa,**
20 **Wanda Joyce Bartholomew,**
21 **Richard Allen Beyl,**
22 **Kelly Gene Richardson,**
23 **Jonathan Robert Davis,**
24 **Theodore Hyun Dokko,**
25 **Todd Halbeisen,**
Miguel Macias,
Lyndon Peats,
John Simpson,
Wayne Wolcott,
Virginia Anne Phillips,
Roes 1-10,
Individually, Individually, Jointly, Jointly and
Severally,
Defendants.

COMPLAINT AND DEMAND FOR JURY
TRIAL

JS 44 (Rev. 09/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA 92223

(b) County of Residence of First Listed Plaintiff Riverside
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA 92223

951 769 1268
Paul Hupp & G. MALL.com

DEFENDANTS

County of Riverside et al
(See Attached Facepage)

County of Residence of First Listed Defendant Riverside
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
UKN

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC Section 1983

Brief description of cause:
Violations of, inter alia, First Amendment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE
08/10/2020

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

1 Paul Hupp
 2 965 Hidden Oaks Drive
 3 Beaumont, CA. 92223
 4 *In Propria Persona*

5 UNITED STATES DISTRICT COURT
 6 CENTRAL DISTRICT OF CALIFORNIA

7 **Paul Hupp,**

8 Plaintiff,

9 v.

Case No.: 20-CV-

10 **County of Riverside,**
 11 **City of Beaumont,**
 12 **Solera Oak Valley Greens Association,**
 13 **Richardson Harman Ober, PC,**
 14 **Richardson Ober, PC,**
 15 **Thomas Harry Cahraman,**
 16 **Rebecca Lynn Dugan,**
 17 **John Washburne Vineyard,**
 18 **Carol Anne Greene,**
 19 **Debre Katz Weintraub,**
 20 **Samiuela F. Taloa,**
 21 **Wanda Joyce Bartholomew,**
 22 **Richard Allen Beyl,**
 23 **Kelly Gene Richardson,**
 24 **Jonathan Robert Davis,**
 25 **Theodore Hyun Dokko,**
Todd Halbeisen,
Miguel Macias,
Lyndon Peats,
John Simpson,
Wayne Wolcott,
Virginia Anne Phillips,
Roes 1-10,
 Individually, Individually, Jointly, Jointly and
 Severally,
 Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

for the

Paul Hupp

Plaintiff(s)

v.

County of Riverside et al
(See Attached Facepage)

Defendant(s)

Civil Action No. 20-cv-

To: (Defendant's name and address) 965 Hidden Oaks Drive
Beaumont, CA 92223

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA 92223

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

1 Paul Hupp
2 965 Hidden Oaks Drive
3 Beaumont, CA. 92223
4 *In Propria Persona*

5 UNITED STATES DISTRICT COURT
6 CENTRAL DISTRICT OF CALIFORNIA

7 **Paul Hupp,**

8 Plaintiff,

9 v.

Case No.: 20-CV-

10 County of Riverside,
11 City of Beaumont,
12 Solera Oak Valley Greens Association,
13 Richardson Harman Ober, PC,
14 Richardson Ober, PC,
15 Thomas Harry Cahraman,
16 Rebecca Lynn Dugan,
17 John Washburne Vineyard,
18 Carol Anne Greene,
19 Debre Katz Weintraub,
20 Samiuela F. Taloa,
21 Wanda Joyce Bartholomew,
22 Richard Allen Beyl,
23 Kelly Gene Richardson,
24 Jonathan Robert Davis,
25 Theodore Hyun Dokko,
Todd Halbeisen,
Miguel Macias,
Lyndon Peats,
John Simpson,
Wayne Wolcott,
Virginia Anne Phillips,
Roes 1-10,
Individually, Individually, Jointly, Jointly and
Severally,
Defendants.

COMPLAINT AND DEMAND FOR JURY
TRIAL

Hupp v. County of Riverside et al, *et al*
9th Circuit Case No.: 20-
Central District of CA Case No.: (No Case No. assigned) VAP (SP)

Exhibit #2

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
OFFICE OF THE CLERK
255 EAST TEMPLE STREET, ROOM 180
LOS ANGELES, CALIFORNIA 90012**

OFFICIAL BUSINESS

NECPOST
11/10/20
10:00 AM
11/10/20

Hupp v. County of Riverside et al, *et al*
9th Circuit Case No.: 20-
Central District of CA Case No.: (No Case No. assigned) VAP (SP)

Exhibit #3

Paul Hupp
965 Hidden Oaks Drive
Beaumont, CA. 92223
In Propria Persona

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Paul Hupp,

Plaintiff,

v.

**County of Riverside,
City of Beaumont,
Solera Oak Valley Greens Association,
Richardson Harman Ober, PC,
Richardson Ober, PC,
Thomas Harry Cahraman,
Rebecca Lynn Dugan,
John Washburne Vineyard,
Carol Anne Greene,
Debre Katz Weintraub,
Samiuela F. Taloa,
Wanda Joyce Bartholomew,
Richard Allen Beyl,
Kelly Gene Richardson,
Jonathan Robert Davis,
Theodore Hyun Dokko,
Todd Halbeisen,
Miguel Macias,
Lyndon Peats,
John Simpson,
Wayne Wolcott,
Virginia Anne Phillips,
Roes 1-10,
Individually, Individually, Jointly, Jointly and
Severally,
Defendants.**

Case No.: CV-20-

**PLAINTIFF PAUL HUPP'S NOTICE OF
EMERGENCY *EX PARTE* APPLICATION
PURSUANT TO LOCAL RULE 7-19 FOR
TEMPORARY RESTRAINING ORDER;
MOTION FOR PERMANENT
INJUNCTION; POINTS AND
AUTHORITIES; DECLARATION IN
SUPPORT (ORAL ARGUMENT
REQUESTED)**

Time:

Date:

Courtroom:

Judge:

I
Introduction

To the United States District Court for the Central District of California ("COURT"), Defendants County of Riverside ("COUNTY"), City of Beaumont ("CITY"), Solera Oak Valley Greens Association ("SOLERA"), Richardson Harman Ober, PC ("RHO"), Richardson Ober PC ("RO"), Thomas Harry Cahraman ("CAHRAMAN"), Rebecca Lynn Dugan ("DUGAN"), John Washburne Vineyard ("VINEYARD"), Carol Anne Greene ("GREENE"), Debre Katz Weintraub ("WEINTRAUB"), Samiuela F. Taloa ("TALOA"), Wanda Joyce Bartholomew ("BARTHOLOMEW"), Richard Allen Beyl ("BEYL"), Kelly Gene Richardson ("RICHARDSON"), Jonathan Robert Davis ("DAVIS"), Theodore Hyun Dokko ("DOKKO"), Todd Halbeisen ("HALBEISEN"), Miguel Macias ("MACIAS"), Lyndon Peats ("PEATS"), John Simpson ("SIMPSON"), Wayne Wolcott ("WOLCOTT") Virginia Anne Phillips ("PHILLIPS") and Roes 1-10 (collectively "DEFENDANTS") and all other parties of interest, pursuant to Local Rule 7-19, Plaintiff Paul Hupp ("Plaintiff") HEREBY GIVES Notice of Emergency *Ex Parte* to issue a temporary restraining order ("TRO") to stay and enjoin DEFENDANTS, based on irreparable harm caused to Plaintiff by DEFENDANTS, from any further criminal prosecution of Plaintiff in State Court by COUNTY, including TALOA. This includes, but is not limited to cases, RIF-1902599 and RIM-1913990.

Plaintiff further seeks a motion date for a permanent injunction after notice and opposition. The TRO will remain in effect until COURT has heard argument and can make a ruling to grant or deny a permanent injunction. Hearing will be held at 9:00 AM in Dept.: , at

1 the United States District Court for the Central District of California, Eastern Division,
 2 Riverside, CA, 92501¹.

3
 4 **II**
Memorandum of Points and Authorities

5 This request for TRO concerns ongoing collusion between COUNTY, Deputy District
 6 Attorney TALOA and multiple Riverside County Superior Court judges; including
 7 CAHRAMAN, DUGAN and VINEYARD who have colluded with COUNTY and TALOA to
 8 file multiple felony criminal charges in case RIF-1902599, all of which lack “probable cause”
 9 (“PC”). RIF-1902599 lacks PC because the felony charges are based on free speech;
 10 constitutionally protected free speech under the First Amendment. In addition to the felony
 11 charge, COUNTY has filed a misdemeanor charge, RIM-1913990, that was direct retaliation
 12 against Plaintiff’s free speech, and clearly violates the Federal Right to a speedy trial secured by
 13 the Sixth Amendment. COUNTY has filed six (6) different criminal cases against Plaintiff since
 14 2013, five (5) since 2017, with 13 different charges. Two (2) of the six (6) cases, RIF-1902599
 15 and RIM-1913990, are still pending. Of the prior four (4) cases, the first (1) case was dropped
 16 the day of trial; the second (2) case was dropped the day of trial, the third (3) case was dropped
 17 the day of trial, the fourth (4) case was thrown out by the judge after the jury had been sworn
 18 because the statute of limitation (“SoL”) had expired. Of the five (5) different charges in RIF-
 19 1902599, the original single charge of Penal Code §76a- “Threatening a Public official”
 20 (“§76a”), filed June 20, 2019, was dismissed at preliminary hearing on December 2, 2019, for
 21 violating the “Litigation Privilege” (“PRIVILEGE”) under Civil Code §47(b) (“§47(b)"). §76a
 22
 23
 24

25 ¹ As of today the COURT is closed down due to COVID-19 and all parties should expect to participate in the *Ex Parte* Hearing telephonically. Whether appearance is in person or telephonically, the parties will be notified 24 hours in advance by Plaintiff on how to appear.

1 would have been dismissed in any event because §76a is facially, and “as applied”,
 2 unconstitutional. §76a violates the constitutionally protected free speech under the First
 3 Amendment. §76a lacked PC to file because it is privileged under §47(b). Three (3) days after
 4 §76a was tossed out, December 5, 2019, misdemeanor case BAM-1903181 was thrown out
 5 because the SoL had expired, but only after a jury had been picked and sworn in. BAM-1903181
 6 also lacked PC to file because the SoL had expired. 10 days after §76a was tossed out, December
 7 12, 2019, COUNTY filed an information alleging four (4) new felony charges, all four (4) new
 8 violations in RIF-1902599 were filed under Penal Code §69- “Resisting an Executive Officer”
 9 (“§69”). The four (4) §69 charges all lack PC because they were based on speech,
 10 constitutionally protected free speech under the First Amendment. And even if the speech was
 11 not protected, the factual circumstances were identical to the §76a charge, the speech was
 12 contained in legal papers filed in litigation with the Court Clerk, which means §69 charges, like
 13 the prior §76a charge, lacked PC to file because it is privileged under §47(b).

15 The same day that the four (4) new §69 violations were filed in RIF-1902599, December
 16 12, 2019, COUNTY filed a new misdemeanor case, RIM-1913990. RIM-1913990 had the exact
 17 same *alleged* victim and the exact same charge as in BAM-1903181, the case that had been
 18 tossed out after a jury had been picked and sworn in just a week prior, December 5, 2019. But
 19 the *alleged* charges in RIM-1913990 occurred on December 17, 2018, which means the charge
 20 was on day number 360 of the 365 day SoL. RIM-1913990 violates a legion of State laws,
 21 including PC §1050.

23 **1. All Speech Is Protected Except Eight (8) Narrowly Tailored Categories**

24 RIF-1902599 allege felony charges of §69. Alleged felonies based purely on speech;
 25 written words. Speech consisting only of written words and nothing more. Words that on their

1 face do not constitute any unlawful conduct. The alleged felony charges are not supported by PC
2 because they are 100% protected under the First Amendment of the United States Constitution.

3 Exceptions to "Free Speech" in the United States fall into eight (8) very specific, and
4 very limited, categories of speech. These categories of speech that are given lesser, or no
5 protection at all by the First Amendment are extremely limited in scope and breadth. They are all
6 narrowly tailored. Speech that is not protected by the First Amendment are: 1) **obscenity**; 2)
7 **fraud**; 3) **child pornography**; 4) **speech integral to illegal conduct**; 5) **speech that incites**
8 **imminent lawless action**; 6) **speech that violates/infringes intellectual property**; 7) **true**
9 **threats (criminal threats)**; and 8) **commercial speech**. The Supreme Court of the United
10 States, under the First Amendment of the United States Constitution, protects legitimate "Free
11 Speech", allowing for limitations of speech only if they encompass one (1) or more of those
12 eight (8) enumerated, very specific, narrowly drawn and limited categories of unprotected
13 speech. All other speech will be considered "Free Speech". All speech is therefore "Free Speech"
14 unless it clearly, distinctly and unequivocally falls into one (1) or more of the eight (8) limited
15 categories of unprotected speech. Any state or federal law that infringes on speech will be
16 deemed invalid, and unlawful, unless the speech clearly, distinctly and unequivocally fall into
17 one (1) or more of the eight (8) limited categories of unprotected speech. The United States
18 Constitution is the supreme law of the land under the "Supremacy Clause" of the United States
19 Constitution. The First Amendment of the United States Constitution is superior to all state and
20 federal statutes. It is superior to all county and local statutes. It is superior to all municipal
21 statutes. If a state or federal statute infringes on any speech, and that speech does NOT fall into
22 one (1) or more of those eight (8) limited categories of unprotected speech, then said speech is
23 deemed "Free Speech" and it is constitutionally protected and the statute is invalid, not the "Free
24
25

Speech". Likewise, any county, local or municipal statute that infringes on speech that does not clearly, distinctly and unequivocally fall into one (1) or more of those eight (8) categories of unprotected speech violates the First Amendment of the United States Constitution and is per se unconstitutional. Plaintiff's speech were statements made in legal pleadings to the effect that if DUGAN and VINEYARD refused grant or deny his submitted papers he would meet with them in person to get a ruling, one way or the other. Plaintiff's argument was drafted and filed in a motion to dismiss more than six (6) months ago and has still not received a hearing date; that motion is attached as "Exhibit #1".

2. Federal Court Intervention Based on "BAD FAITH" Prosecution; Federal Restraint of State Courts by Federal Injunctions Allowed for "BAD FAITH" Prosecutions; Anti-Injunction Act Does Not Apply to "BAD FAITH" Prosecutions

The SCOTUS has ruled that a federal court may enjoin a State from a criminal prosecution if the statute being charged infringes on First Amendment (freedom of speech, access to the courts) rights and is a result of a BAD FAITH filing/prosecution. Such a state BAD FAITH prosecution will be enjoined when an overbroad statute, a statute that reaches both protected and unprotected expression and conduct, such as the speech in this case, might/does critically impair the exercise of constitutionally protected rights; allowing a federal court to enjoin the State thereof.

Furthermore, it is clear in this action that the *alleged* criminal conduct is not met by the "probable cause" standard, or any standard whatsoever. That in and of itself is BAD FAITH. So the mere fact that the State has brought this criminal action, without "probable cause", and has been able to keep it in the court system for more than one (1) year, establishes that it is over broad, or at least is being used in such a manner by the State.

1 The mere **threat** of BAD FAITH prosecution under such an overbroad statute can invoke
 2 federal court injunctions:

3 "...may deter . . . almost as potently as the actual application of sanctions. . . ." See
 4 Dombrowski v. Pfister, 380 U.S. 479,486 (1965).

5 In such cases courts could no longer embrace:

6 "[t]he assumption that defense of a criminal prosecution will generally assure ample
 7 vindication of constitutional rights," because: 1) the mere threat of prosecution; 2) or the
 8 long wait between prosecution and final vindication could result in a "chilling effect upon
 9 the exercise of First Amendment rights." See Dombrowski at 487.

10 This principle established by the SCOTUS was two-phased:

11 "1) a federal court should **not** abstain when there is a facially unconstitutional statute
 12 infringing upon speech and application of that statute discourages protected activities;
 13 and 2) the court should **enjoin** the state proceedings when there is a prosecution, *or even*
 14 **the threat of prosecution**, under an overbroad statute regulating expression, if the
 15 prosecution **or threat of prosecution** chills the exercise of freedom of expression." See
 16 Cameron v. Johnson, 381 U.S. 741 (1965); Cameron v. Johnson, 390 U.S. 611 (1968).

17 Dombrowski allows Federal Courts to enjoin State Courts in criminal prosecutions in
 18 very limited circumstances. Those limited circumstances are met in the fraudulent prosecution of
 19 RIF-1902599. These fundamental rights were reaffirmed two (2) years later in Zwickler v.
 20 Koota, 389 U.S. 241 (1967). **In Zwickler the SCOTUS deemed abstention improper.** See
 21 Zwickler at 248-252.

22 Dombrowski was limited and narrowed under Younger v. Harris, 401 U.S. 37 (1971), but
 23 not reversed. The limitations imposed under Younger would not apply in this action because
 24 Plaintiff has alleged, and documented, multiple/repeated bad faith criminal prosecutions by DA,
 25 and even more bad faith acts (and collusion with DA) by multiple Riverside County Judges. If
 RIF-1902599 and the other six (6) cases and 12 different charges brought by COUNTY was
 "good faith" enforcement of California's criminal laws there would not be a problem; the

1 problem is ALL six (6) of the cases and all 12 different charges have gone to trial, only to be
2 dropped by COUNTY the day of trial, dropped after the jury was sworn in in case BAM-
3 1903181 because the SoL had expired, or dismissed at the preliminary hearing with the §76a
4 charge. The multiple bad faith prosecutions of Plaintiff form a “pattern of harassment” that
5 entitles Plaintiff to federal injunctive relief and is exempt from Younger. The multiple/repeated
6 bad faith criminal prosecutions by COUNTY against Plaintiff are unparalleled.

7
8 “The Anti-Injunction Act” (“ACT”; *See* 28 U.S.C. § 2283) prevents Federal Courts from
9 enjoining State Court criminal prosecutions in nearly all cases; one (1) of the few exceptions is
10 when a State *threatens* to criminally prosecute in *violation of* First Amendment rights, such as
11 free speech or access to the Courts. RIF-1902599 has multiple violations free speech, the main
12 exception to The Anti-Injunction Act. In addition COUNTY and TALOA have stated they may
13 file more felony charges against Plaintiff concerning his speech, speech that is identical to the
14 speech here, constitutionally protected free speech under the First Amendment.

15 **3. Violation of Federal Speedy Trial Under Sixth Amendment**

16 The Federal speedy trial analysis is completely different from the State speedy trial
17 analysis, under the Federal speedy trial analysis a defendant need not show any prejudice at all,
18 a mere delay by the prosecution that is unwarranted is enough. Barker v. Wingo, 407 U.S. 514
19 (1972) is the leading case on the Federal right to speedy trial and includes a four (4) factor
20 analysis. The Barker analysis uses four (4) factors to be considered in determining whether a
21 criminal defendant’s constitutional right to a speedy trial has been violated: “[1] Length of delay,
22 [2] the reason for the delay, [3] the defendant's assertion of his right, and [4] prejudice to the
23 defendant.” *See Barker* at 530. The first two (2) Barker factors, the “length of the delay” and the
24 prosecuting attorneys “reason for the delay”, weighs heavily in the Barker analysis.
25

Length of Delay

“The length of the delay is to some extent a triggering mechanism. Until there is some delay which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into the balance.” See Barker at 530. analysis. “The first of these is actually a double enquiry. Simply to trigger a speedy trial analysis, an accused must allege that the interval between accusation and trial has crossed the threshold dividing ordinary from ‘presumptively prejudicial’ delay [citation] since, by definition, he cannot complain that the government has denied him a ‘speedy’ trial if it has, in fact, prosecuted his case with customary promptness. If the accused makes this showing, the court must then consider, as one factor among several, the extent to which the delay stretches beyond the bare minimum needed to trigger judicial examination of the claim. [Citation.] This latter enquiry is significant to the speedy trial analysis because . . . the presumption that pretrial delay has prejudiced the accused intensifies over time.” (*Doggett v. United States* (1992) 505 U.S. 647, 651-652.) A delay of one year can create a presumption of prejudice. (*Id.* at pp. 655-656; *People v. Williams* (2013) 58 Cal.4th 197, 234-235 [seven year delay in bringing a capital case was presumptively prejudicial].)

“Under the federal Constitution, **the defendant need not identify any specific prejudice from an unreasonable delay in bringing the defendant to trial after the speedy trial right has attached.** See *Moore v Arizona* 414 U.S. 25, 26 (1973) Instead, **delay that is ‘uncommonly long’ triggers a presumption of prejudice, with the presumption intensifying as the length of the delay increases.** See *Doggett v. United States*, 505 U.S. 647, 651-652, 656-657 (1992); see also *Leaututufu v. Superior Court*, 202 Cal.App.4th Supp. 1, 8 (2011), [“it is important to distinguish between (i) the prejudice required to initiate a *Barker* analysis (**presumed prejudice is sufficient**), and (ii) the prejudice that the court considers when engaging in the *Barker* four factor analysis (prejudice is required, but **extreme delay in light of the charge can create a conclusive presumption of such prejudice**)”].) Bold and underline added.

Delay in and of itself is “prejudice” under Barker. RIM-1913990 was filed on day number 360 of a 365 day SoL. “The presumption that pretrial delay has prejudiced the accused intensifies “over time”, and “delay that is ‘uncommonly long’ triggers a presumption of prejudice, with the presumption intensifying as the length of the delay increases...” Unless COUNTY can give a valid reason for the “uncommonly long” delay in filing RIM-1913990 under the second prong of Barker RIM-1913990 must be dismissed for violating the Federal right to a speedy trial. The “uncommonly long” delay was because it was retaliation against Plaintiff’s speech by COUNTY.

III
Conclusion

For the reasons set forth *supra* Plaintiff prays that the COURT GRANT Plaintiff's Emergency *Ex Parte* Application and TRO, to prevent irreparable harm being caused to Plaintiff, until a full hearing on the merits can be held and a ruling on a permanent injunction is granted or denied.

IV
Declaration

I, **Paul Hupp**, the above-entitled Respondent, declare the following;

1. I have personal knowledge of all statements and exhibits in this declaration.
2. If called upon to testify to this declaration in a court of competent jurisdiction I could and would testify to everything stated herein.
3. All Exhibits attached to or referenced in this brief, are true and correct copies of the originals, which I have in my personal possession.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except for those portions based on information and belief and for those portions I believe them to be true.

Executed August 10, 2020, Beaumont, CA

Respectfully submitted.

Dated this 10th day of August, 2020

/s/ Paul Hupp
Paul Hupp
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Beaumont, CA. 92223
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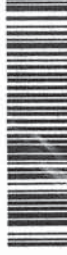
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